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Ontario Domestic Violence Protection Act: An analysis of discourse.

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**ONTARIO DOMESTIC VIOLENCE PROTECTION ACT: AN ANALYSIS OF
DISCOURSE**

by

April Girard

A Thesis

Submitted to the Faculty of Graduate Studies and Research
through Sociology and Anthropology
in Partial Fulfillment of the Requirements for
the Degree of Master of Arts at the
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Abstract

This paper explores different discourses in Ontario's Bill 117 (2000), An Act to Better Protect Victims of Domestic Violence. Through an examination of the Hansard transcripts this paper seeks to explore how feminist, men's rights and other actors, both state and non-state, collectively constructed the problem of domestic violence. I incorporate both feminist and Foucauldian insights focusing on how knowledge and power are deployed and produced within this discursive context. Using a combined content and discourse analysis research strategy, I identify seven important themes: everyone is responsible, protection and gender, rights and gender, funding and fairness, numerical and statistical truths, language, and resistance. Through this study, I contribute to debates on Canadian criminal justice solutions to feminist efforts to empower and encourage women to resist male abuse and power.

Dedication

This is dedicated to the women across Ontario, Canada and the world whose voices remain unheard.

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I would like to take this opportunity to express my deepest thanks and admiration to the incredible women on my thesis committee. Thank you to Dr. Ruth Mann for her constant support and feedback on my work, as well as letting me be involved with her projects throughout my M.A. Without her incredible knowledge in this area, and her continuous encouragement, I might still be sitting in front of my computer wondering what to do next.

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Chapter One

Introduction

Domestic violence legislation has been enacted in several Canadian provinces, including Saskatchewan (1995), Prince Edward Island (1996), Alberta (June 1999), Manitoba (September 1999), and the Yukon (November 1999) (StatsCan, 2003). Nova Scotia (2003) later followed suit while other provinces such as New Brunswick, Quebec and the Northwest Territories have also been considering the adoption of similar legislation. The purpose of creating provincial legislation was to complement the Criminal Code, not replace it.

Most provincial legislation defines domestic violence as including physical abuse, threats and damage to property, forcible confinement, or sexual abuse. However, the legislation in Prince Edward Island and Manitoba also includes emotional abuse (Ad Hoc Federal-Provincial-Territorial Working Group, 2003, p. 49). Further, all provincial legislation includes similar order terms such as granting exclusive possession of the home to the victim, removing the respondent from the home, ordering the respondent away from specific places, sending a police officer to aid in removing belongings, and issuing no contact orders (Department of Justice as cited in Ad Hoc Federal-Provincial-Territorial Working Group, 2003, p. 49).

In 2000, politicians, justice professionals and representatives of various social action groups came together in response to the Progressive Conservative (PC) government's attempt to create similar legislation in Ontario through Bill 117: *An Act to Better Protect Victims of Domestic Violence*. Also known as the *Ontario Domestic Violence Protection Act*, this Bill was introduced by the Mike Harris government in September of 2000. Framed as "one more step we are taking to protect victims of

domestic violence and hold offenders accountable” (MPP Gerry Martiniuk, PC, 3 October 2000: 15h10), Bill 117 was the first time the Ontario provincial government put forth a definition of domestic violence. As outlined in the Bill, domestic violence – a gender neutral construct – includes:

An assault that consists of the intentional application of force that causes the applicant to fear for his or her safety, but does not include any act committed in self-defence. An intentional or reckless act or omission that causes bodily harm or damage to property. An act or omission or threatened act or omission that causes the applicant to fear for his or her safety. Forced physical confinement, without lawful authority. Sexual assault, sexual exploitation or sexual molestation, or the threat of sexual assault, sexual exploitation or sexual molestation. A series of acts which collectively causes the applicant to fear for his or her safety, including following, contacting, communicating with, observing or recording any person (Bill 117, First Session, Thirty-Seventh Parliament).

This study examines public debate on Bill 117, as captured in the Hansard official verbatim transcripts of the proceedings. My aim is to contribute to understandings of how legislative outcomes are forged including, as in the case of Bill 117, legislation which failed to be enacted. Specifically, in this thesis I address how debate on the aims and provisions of Bill 117 constructed the problem of domestic violence and perceptions of what is needed to deal with this problem. This requires an examination of the claims advanced by both ruling and opposition Members of Provincial Parliament (MPPs), representatives of professional bodies and competing special interest groups, among whom I include individual citizens who masked their group affiliation. My analysis assumes that the discourses constructed by these governmental and non-governmental actors both reflect and shape how others, including the police, courts, and the general public, interpret and understand the problem of domestic violence (Tierney, 1982).

My principal data source is the Hansard transcripts of the Bill 117 debates, which took place in the fall of 2000. The debates are comprised of three distinct phases. The first phase consisted of the reading and printing of the Bill. In the second phase all Members of Provincial Parliament were given an opportunity to present their questions and concerns regarding the Bill. During this phase of the Bill 117 debates it was decided that the Bill would be sent to the Committee on Justice and Social Policy to hear citizen/interest group testimony with questioning by MPPs (see Appendix A). This was followed by debate over proposed amendments and time allocation. Finally, the third reading consisted of the passing of Bill 117.

My research goal is similar to that of Gillian Walker (1990) who examined the impacts of feminist and non-feminist discourses on family violence policies in Canada in the 1980s. As Walker demonstrated, an examination of the discourses involved in the creation of policies helps researchers and activists understand how the language and intent of legislation takes shape. This aim is situated within my commitment as a feminist researcher to advance understandings of how to effectively build and support policy initiatives that foster the advancement of women in Canadian society.

This thesis is divided into eight chapters. In Chapter One, I introduce Bill 117, situate it in the context of other provincial domestic violence initiatives, briefly summarize my approach, and outline the thesis. Chapter Two outlines the history of domestic violence policies and backlash from men's organizations in the Canadian context as advanced in academic scholarship. The next chapter examines the theoretical perspectives that inform my analysis, feminism and governmentality. Following my theoretical chapter is a discussion on methods. Here I present my methodology, a two-

step process of content analysis and discourse analysis, and outline my data sources and their characteristics. In Chapter Five I present my findings organized around seven key themes, followed by a brief synopsis of what has happened since the demise of Bill 117. Afterwards I discuss my findings in light of governmentality and feminist theory on power, gender, and social processes. Finally, in Chapter Eight, I conclude with a discussion of the relevance of the thesis to policy and research in the domestic violence field.

Chapter Two

Literature Review

Efforts to establish gender-sensitive domestic violence legislation in Ontario and efforts by men's advocates to resist and block such legislation build upon more than a century of feminist activism and "malestream" (Kurz, 1993) resistance. In the nineteenth century, efforts to forge legislation to protect women from domestic assault coincided with efforts to advance women's legal rights, and increase women's political power (Chunn, 1999; Pleck, 1987; Sheehy, 2002; Snell, 1992). One significant change towards the recognition of "wife assault" as a social problem was an amendment to Ontario legislation in 1897, which extended the definition of what second-wave feminists named a battered wife to include a wife fleeing mental cruelty and assault. The Criminal Code was in fact altered to include punishment for men who beat their wives and caused them bodily harm (Snell, 1992). However, as Snell (1992) observes, assault was already imbedded in the Criminal Code and was dealt with more severely than this amendment. It was the sexist bias of judges, lawyers and jurors, and the failure of Canada to recognize most women as persons until 1929 that undermined the potential of law to protect women from abusive husbands through the early to late twentieth century.

After seventy years of inattention, the 1960s saw the re-emergence of wife abuse as a social problem in Canada and the United States (Pleck, 1987; Tierney, 1982). However, it was not until the 1970s, when liberal feminism was at its peak in academic arenas that feminists began to argue that women were still not substantively equal before the law (Comack, 1999). As Chunn (1999) documents, women who sought gender equality came to realize that they would need to fight to have paternalistic policies and

legislation abolished. This paved the way for a variety of legislative responses to address many of the problems associated with domestic violence against women.

Feminist perspectives and debates have helped shape domestic violence policy in Canada throughout the late twentieth century. This was facilitated by feminism's somewhat uncomfortable entrance into "relations of ruling" through the creation of Status of Women at provincial territorial and federal levels (Walker, 1990; see also Smith, 1999). One common but controversial theme across feminist discourses is the need for appropriate and strong criminal justice sanctions. However, there is considerable and persistent disagreement within feminist discourses on the impacts of increased reliance on criminal justice strategies, especially for women and men in socially and economically marginalized communities (see McMahon & Pence, 2003; Snider, 1994, 1998; Ursel, 1994; Valverde, MacLeod & Johnson, 1998). As Walker (1990) pointed out, a criminal justice focus is consistent with the law and order orientation of conservative politicians.

Domestic violence is a highly politicized construct, captured in its definitions and the intense controversy over its naming and dynamics (Dobash & Dobash, 1992, 1998; Gelles & Loseke, 1993; Mann, 2000, 2003; Tierney, 1982; Tutty, 1999; Walker, 1990). The term domestic violence is itself a legal construct used by those working in the criminal justice system. Feminists tend to refer to violence between intimate partners as wife or woman abuse, wife battering, or violence against women, terms which emphasize the gendered nature of intimate violence as viewed through a feminist lens and as examined through feminist research methodologies, including especially qualitative and gender-sensitive quantitative research (Dobash & Dobash, 1998; Johnson, 1995; Johnson, 1998; Johnson & Ferraro, 2000; Saunders, 2002; Yllo, 1993). In contrast, non-feminist

researchers employ gender-neutral terminology such as domestic violence, spouse abuse, partner abuse, family violence, or more recently “intimate partner violence” (Jordan, 2004; Rhatigan, Moore & Street, 2005) or “intimate partner abuse” (Lupri & Grandin, 2004). These gender neutral terms are associated with the research tradition and Conflict Tactics Scale (CTS) survey methodology of sociologist Murray Straus (1993, 1997), research that men’s advocates draw upon in lobbying against feminist-supported domestic violence policies (see DeKeseredy, 1999; Lucal, 1995; Mann, 2003, 2005; Saunders, 2002; Schwartz & DeKeseredy, 1993; Sherven & Sniechowski, 1988; Tutty, 1999; Williams & Williams, 1995).

From the late 1970s onward prominent family violence researchers have promoted a “gender equality” or “battered husband” (Steinmetz, 1977; Straus 1993, 1997) representation of the domestic violence problem, anchored in widely replicated and highly controversial CTS findings that women and men perpetrate equivalent rates of domestic assault. In Canada, a men’s rights backlash movement emerged shortly after the establishment of Status of Women and has drawn on this representation in lobbying directed at federal and provincial bodies (Bertoia & Drakich, 1993; Boyd & Young, 2002; DeKeseredy & Schwartz, 2003; Laing, 1999; Mann, 2005). In addition to fathers’ rights to custody and access, and freedom from what fathers’ advocates argue is excessive child and spouse support obligations, a principle area of men’s rights activism is domestic violence policy (Lucal, 1995; Mann, 2005; see also Messner, 1997). Drawing on family violence research, men’s advocates insist that gender-sensitive definitions and policy falsely frame the problem, and unfairly blame men (see McNeely & Robinson-Simpson, 1987). Their major claim is that women are equally or more violent than men in

intimate or domestic situations, and that policy must be adapted to better reflect this “reality”.¹

Men’s advocates also argue that in contrast to women’s groups, which have Status of Women as a vehicle and a voice, men’s groups are unfairly excluded from policy circles, denied a right to be heard, and perhaps most importantly denied public funding to advance their voice and needs. As Boyd and Young (2002) document, men’s advocates have been advancing these arguments since the early 1980s (see also Bala, 1999; Bertioia & Drakich, 1993; Mann, 2005; Tutty, 1999).

As Sandra Harding (1986) noted, “the opening of public discourse to multiple voices and perspectives calls into question the very notion of a single point from which a final overriding version of the world can be written” (as cited in Smith, 1999, p. 68). Consequently, while Canadian feminists claim victories in the establishment of women’s shelters and in the inclusion of gender equality in the Canadian Charter of Rights and Freedoms (Erwin, 1988), these victories are contested and unstable. Indeed, as Sheehy (2002) documents, the right to gender equality is used as a weapon to advance men’s rights claims of gender bias. It is in the context of this intensive men’s rights activism that the Harris government introduced Bill 117 in 2000.

Chapter Three

Theoretical Framework

My analysis of the Bill 117 debates draws upon governmentality and feminist perspectives. In combination these perspectives sensitize me to the ways the state and competing actors in civil society shape socio-political-economic developments relevant to the regulation of domestic violence. Particularly valuable to my understandings are governmentality discourses on advanced liberal forms of governance (Rose, 1999; see also Foucault, 1991; Hunt, 1999). Nikolas Rose added to the definition of governmentality by arguing that government consists of “deliberate attempts to shape conduct in certain ways in relation to certain objectives” (1999, p. 4). From this advanced liberal perspective, governing is recognized not as domination solely administered in a top-down fashion, but in a constantly shifting and changing set of relations dispersed among competing parties, including but not limited to members of political parties, professional bodies, and social action groups. This formulation expands conceptualizations of governmental authorities to include families, churches, experts, professionals and other actors implicated in the conduct of conduct, dissolving any rigid line between public and private (see Garland, 1997).

Rose (1999, p. 139-140) theorized that “over the closing two decades of the twentieth century, beyond the politics of the right, a new way of thinking about the objects, targets, mechanisms and limits of government has taken shape which shares many of the premises of neo-liberalism.” He called this new way of thinking advanced liberalism to address the different ways the state must encompass various actors and disperse its powers among a variety of competing parties (Dean, 1999; Rose, 1999). From this perspective, the focus of analysis is not the direct power of the state but how the state

is expressed in governing through state and non-state entities (Rose & Miller, 1992). For instance, nearly two decades ago Linda MacLeod (1987) argued that a criminal justice response could help battered women, but that the justice system is not the only strategy that should be used to eliminate domestic violence because it does not dissolve some of the greater issues within the social structure. Mechanisms outside the state apparatus should be incorporated, such as shelters, to form a holistic approach to address the issue of domestic violence.

The term governance encompasses objectives ranging from tactics and processes to programmes for controlling, regulating and shaping the behaviour of others (Rose, 1999). Rose and Miller (1992) suggest that these modes of governance should be examined based on their political rationalities and governmental technologies. Political rationalities refer to the “changing discursive fields within which the exercise of power is conceptualised, the moral justifications for particular ways of exercising power by diverse authorities, notions of the appropriate forms, objects and limits of politics, and conceptions of the proper distribution of such tasks among secular, spiritual, military and familial sectors” (Rose & Miller, 1992, p. 175). Governmental technologies encompass “the complex of mundane programmes, calculations, techniques, apparatuses, documents and procedures through which authorities seek to embody and give effect to governmental ambitions” (Rose & Miller, 1992, p. 175). Governance then needs to be examined based on the various ways in which political rationalities, or the ways of thinking, lead to techniques of governance, or the possible solutions, to deal with a particular problem.

Under advanced liberal forms of governance the Canadian state, various agencies, and rights groups exercise power through their participation in policy initiatives. As feminist scholar Susan Boyd (1994) also notes, neither the state nor civil society are monolithic institutions. Rather, the state is a set of arenas in which and through which women's oppression is both imposed and resisted, under the influence of varying and competing social interests and lobbies. From this perspective, power is never "held" in an absolute sense. Rather it is a constantly shifting and changing set of relations and outcomes.

I draw upon feminist discourses recognizing that feminism is a political movement. It is also, however, a body of contested knowledge aimed at comprehending and changing the inequalities that women experience as members of society (Comack, 1999; see also Mann, 2005; Mansbridge, 1995; Carrington, 1998). Currently, many ideas within governmentality literature are incorporated into feminist discourse. Feminist scholars now frequently acknowledge that all individuals exercise power to varying degrees, and that women as well as men can be abusive (Carrington, 1998; Mann, 2003, 2005; Snider, 1998; Tutty, 1999), while continuing to emphasize that the vast majority of victims of serious domestic violence are women. While some feminists continue to treat capitalism or patriarchy as totalizing structures that have specific and determined impacts, other feminists counter that social structures do not negate the power that both individual women and groups of women exercise within these structures (Comack, 1999; see also Boyd, 1994). Foucauldian feminists in particular reject a totalizing focus on women as a whole, in favour of analyses that incorporate the voices of previously ignored or silenced women and men (Snider, 1998; Carrington, 1998). They emphasize that there

is not one single way to look at gender because gendered relations are mediated by other forms and varieties of power and because gender is itself a construct, constituted through discourses.

Foucault and other governmentality theorists have profoundly affected feminist conceptualizations of power. Although gender was absent in Foucault's work, he does provoke feminists into questioning their grasp of gender relations (Ramazanoglu, 1993). Feminist and Foucauldian perspectives have helped some activists and academics realize that women exercise power in patriarchal institutions, rather than solely acting against them (Kandiyoti, 1988; McNeil, 1993). On a collective level feminists involved in the struggle against domestic violence have used the patriarchal social/legal/structural system to help conceptualize their own and other women's power generally, and to sanction male violence against women in particular. As Snider (1998) notes, feminists have used state institutions and opportunities to counter patriarchal power in the private sphere. This is demonstrated by the creation and growth of the battered women's movement in the 1970s, which harnessed the power of established women's organizations to resist the dominant discourse of patriarchy (Tierney, 1982). Canadian feminists have used this highly successful movement to gain a voice within the current system, exemplified in Canada by the creation of Status of Women. The development of Status of Women gave women, and therefore feminism, a voice in the federal government along with an official mandate to promote gender equality, accompanied by funding for research on women's interests and needs (Walker, 1990).

Feminists have also used Foucault's notion of power/knowledge to question how many women's voices have been silenced within feminist discourse. Different groups of

women are subjected to the exercise of power over them through such things as sex, class, race, and sexual orientation (Ramazanoglu, 1993). However, factors other than gender and patriarchy play into how and why a woman feels oppressed and exploited. A Foucauldian feminist perspective recognizes that power is manifested through both dominant discourses and counter-discourses available at a specific moment in time, through the state, various agencies including mainstream and alternative media, and other organizations. As stated by Elizabeth Stanko (1997), women have been conscious of men's violence for much longer than criminological theorizing claims, but in recent decades theorizing has distorted the fear of crime as something new without regard for the outside variables affecting this claim. As Berns (2001) has suggested, these textual realities contribute to the ways in which risk management is gendered and governed through dominant discourses (Smith, 1990, 1999). This argument is relevant to the feminist contention that in legal discourse, "women are always-already problematic" (Smart, 1992, p. 31). At the same time, instruments that assess batterers dangerousness are potentially a powerful resource for containing and resisting male abuse, as men's advocates' opposition to these tools demonstrates. Indeed, the relationship between knowledge, power and governance is exemplified in risk management tools, which are continuously emerging and being improved upon with the aim of making "batterers" and high-risk families easier to identify. Examples in Ontario and other Canadian provinces include the Brief Spousal Assault Form for the Evaluation of Risk (B-SAFER), the Spousal Assault Risk Assessment Guide (SARA), and the Ontario Domestic Assault Risk Assessment (ODARA). As these tools demonstrate, dealing with "risks" of criminality,

including domestic violence has become a routine part of crime control in advanced liberal societies (O'Malley, 2002).

Not all feminists accept a Foucauldian understanding of power and of feminism as a participant in what Dorothy Smith (1987) and others refer to as “relations of ruling” (see Walker, 1990). Smith (1999) in particular rejects Foucault’s view that knowledge and power are linked primarily through discourse. She maintains that a Foucauldian-type linking of these concepts advances the power of ruling relations to dominate and exploit marginalized populations (Smith, 1999). Ruling relations go beyond formal government to adjust and control society’s ways of thinking and acting (Walker, 1990). Therefore if power is linked to knowledge only dominant institutions and discourses would be advanced, while others learn to govern their behaviour according to those standards. Other feminists similarly argue against Foucault’s shift away from a focus on sovereign power, to a more abstract and diffuse understanding of power as everywhere and exercised by everyone (see for example Boyd, 1994; Comack, 1999; Fisher, 1998). Comack (1999), for example, argues that we may not need the state to be the centre of power, but the state still plays an important role in exercising power over society, made evident through often unintended outcomes to domestic violence legislation (see also Barata & Senn, 2003; Rose, 1999; Snider, 1998; Walker, 1990). Moreover, since feminists consider male dominance in political, social and economic spheres to be the principle source of women’s oppression, Comack (1999) and other feminists argue that to downplay the power of this societal structure or relation is to erase more than a century of feminist struggle.

From a Foucauldian perspective, patriarchy is primarily a discourse, construct or narrative. From a feminist perspective, this construct captures a powerful reality, a reality that feminists must continue to confront and resist. The Foucauldian feminist perspective that informs my analysis recognizes “truths” in both these understandings and challenges previous policy readings by incorporating both feminist and Foucauldian discourses. In drawing on both feminism and governmentality, I link the problem of domestic violence and its regulation to socio-political-economic developments in which state and non-state actors exercise power.

Chapter Four Methodology

My principal data source is the Hansard verbatim audio taped transcripts of the Bill 117 debates, held from October 3 to December 5, 2000. As outlined in Appendix A, all Members of Provincial Parliament were given an opportunity to speak to the strengths and weaknesses of Bill 117. However, on October 24, 30 and 31 the Standing Committee on Justice and Social Policy was comprised of only eight MPPs. Among these were five Progressive Conservative (PC) MPPs, two Liberal MPPs, and one New Democratic Party (NDP) MPP. In addition ten MPPs served as substitutions, including eight PC and two Liberal MPPs. There were no NDP members serving as substitutions.

Also, on October 24, 30 and 31 twenty organizations and five individuals made presentations to the Standing Committee. Among these were representatives of eight women's anti-violence groups and organization who testified on behalf of abused women and their children. In opposition to this feminist voice, also testifying on these days were representatives and supporters of eight pro-men's groups, who testified on behalf of men and women who feel disenfranchised or abused by a system that allegedly favours women. It should be noted that among these are two women's group, Second Spouses, and Mothers for Kids. In addition, five individuals claimed to speak on their own behalf, rather than as interest group representative including Mr. Brian Jenkins, Mr. Walter Fox, Mr. Gene Colosimo, and two federal parliamentarians -- Senator Anne Cools and Liberal MP Roger Gallaway. Criminal lawyer Walter Fox, Senator Anne Cools and MP Roger Gallaway were also strong supports of fathers' rights in the 1998 federal debates on child custody and access (see Bala 1999; Mann 2005). Finally, on October 31 six

representatives of four legal organizations testified to the strengths and weaknesses of Bill 117.

My analysis of the Bill 117 debates draws upon a combination of content and discourse analyses. I have decided to use both content and discourse analysis because once themes are created and organized they can be used to examine the discourse created and employed within these particular categories. As Wood and Kroger (2000, p. 6) state, “discourse analysts are not uninterested in content but...their aim is to go beyond content to see how it is used flexibly to achieve particular functions and effects.” Recognizing this, I similarly used content analysis to identify themes; however, I moved beyond the content to examine how competing discourses on domestic violence were created and deployed within particular thematic categories.

Content Analysis

In content analysis a researcher examines the themes within a text, organizing them into categories that make sense based on their prior review of the literature, and upon the frequency of a theme’s occurrence within the texts (Silverman, 2003). To accomplish this, my first step was reading through the Hansard transcriptions of the Bill 117 debates numerous times to get an understanding of key issues of concern, agreement, and disagreement. To help organize data into categories where words or phrases occurred frequently I used the software program NVivo, which is considered a reliable and effective program for content analysis.

I coded both latent and manifest themes. Latent themes demonstrate the “underlying, implicit meaning in the content of a text” (Neuman, 2000, p. 296). For example, a latent theme might emerge through an examination of the emotional content

of language employed to advance a positions. Consequently, a researcher seeks to identify instances in which a speaker in a text is hostile, supportive, or deliberately non-argumentative. In contrast, manifest themes refer to themes that are clearly apparent or obvious (Neuman, 2000). For example, I recognized that funding was a theme because all parties involved clearly articulated that money was an issue. Finally, my knowledge of the research literature sensitized me to the likelihood that the issue of female versus male perpetration of domestic violence and other controversial issues would likely emerge as themes.

As I read through the debates I made some preliminary notes regarding words or phrases that appeared numerous times. Then, using the software program NVivo I coded all the debates and testimony, coding words, phrases, and discussions that occurred frequently or that had special resonance in the research literature, as either a latent or a manifest theme. It is interesting to note that many of the themes that emerged using NVivo, meaning themes that were identifiable across multiple passages compared to themes that were repeated less often, were frequently categories that had emerged during my initial readings. This strengthened my belief that these were the dominant themes throughout the debates.

In performing this coding exercise, I came to realize that many portions of the text fit readily with multiple themes. Moreover, there was considerable overlap among themes. Through repeated scrutiny, however, I was able to collapse my coding into a set of seven dominant themes, which I have named: everyone is responsible; protection and gender; rights and gender; funding and fairness; numerical and statistical truths;

language; and resistance. I used these content categories as a preliminary stage to inform the next step, discourse analysis.

Discourse Analysis

In discourse analysis, texts are examined for how issues are produced and used to advance social interests, including the ways claims to truth are authorized, situated, and countered (Silverman, 2003). This strategy is particularly suited to research that draws upon feminist and Foucauldian insights because these perspectives focus on how knowledge is created and deployed within specific discursive contexts. It is a research strategy that sensitizes the researcher to how socially created discourses connect to the ways individual experiences come to be regarded (Gubrium & Holstein, 2003).

To complete this second step in my analysis I first identified each actor or speaker with one of more of the political parties, interest groups, or professional bodies represented at the debates. Using the search engine Google I conducted a web search to identify the party position of each participating MPP (Progressive Conservative, Liberal, NDP), as party affiliations were not always noted in the Hansard transcripts. Similarly, I conducted a web search to identify possible interest group affiliations of citizens who testified. Citizens fell broadly into two competing camps. One camp consisted of representatives of women's anti-violence organizations, who advocated for battered women and their children. The second camp consisted of men's rights advocates and supporters. Through this web search I discovered that citizens who advanced what I came to recognize as a men's rights or pro-men's rights perspective but who claimed to be speaking for themselves were in fact affiliated with one of the eight men's rights or pro-men's rights groups, including in particular Brian Jenkins, Walter Fox, Gene

Colosimo, Senator Anne Cools and Liberal MP Roger Gallaway, all of whom “appear” as advocates on the websites of one or more of the participating pro-men’s groups.²

After making these identifications, I used discourse analysis to situate the ways the MPPs, interest group members and affiliates, and representatives of the three legal organizations presented their claims and aims within the texts, with specific focus on the seven dominant themes. That is to say, I used content analysis to build up to discourse analysis, which helped me to identify how each political party, interest group member or affiliate, or professional situated the problem of domestic violence according to the key themes. Through this combined methodology, I examined the different versions of the “world” of domestic violence produced by competing actors seeking to advance or counter efforts by the Harris government to solve the problem of domestic violence through this law-and-order legislative initiative.

Chapter Five

Findings

In the following discussion I present the perspectives of Progressive Conservative and opposing MPPs, competing interest group representatives and supporters, and representatives of professional bodies. These competing views are revealed through seven key themes: everyone is responsible; protection and gender; rights and gender; funding and fairness; numerical and statistical truths; language; and resistance. I also briefly examine MPPs' discussions of domestic violence legislation in other provinces. It is important to reiterate that there is considerable overlap among the seven themes, as many statements readily fit into more than one thematic category. The themes should therefore be viewed as a heuristic device that has allowed me to systematically organize the data to determine how competing actors constructed domestic violence in the Bill 117 debates.

Everyone is Responsible

The debates began on October 3, 2000 with the second reading of Bill 117. Throughout the debates, Progressive Conservative MPPs held firm to their party's platform, while opposition MPPs, special interest group representatives, and representatives of the professional bodies tried vigorously to convince the Harris government to address all possible shortcomings. Among these shortcomings is how the Harris government and Bill 117 construct responsibility for ending domestic violence. As evinced in the following quotes, many MPPs and special interest groups adopted the advanced liberal (Rose, 1999) view that everyone in society has a responsibility to end violence against women.

MPP Gerry Martiniuk, PC: This act is in response to one of the most disturbing and insidious crimes: domestic violence. It is a crime that all of us, as legislators, neighbours, fathers, mothers, and citizens of Ontario, cannot ignore. It is a serious crime that has serious repercussions for our society (3 Oct 2000: 15h10).

Maxine Brandon, Mothers for Kids: We know that domestic violence causes great trauma to all concerned--to men, women and children and within our communities--yet we allow this in society. We are all to blame (30 Oct 2000: 18h05).

MPP Michael Bryant, Liberal: As individuals and as legislators, we have a responsibility to do all that we can to prevent these tragedies and to keep families safe (14 Nov 2000: 15h50).

As the above quotes demonstrate, MPPs across party lines and special interest groups generally agreed on the seriousness of domestic violence and the need for everyone's involvement. Progressive Conservative MPPs commonly asserted that their government met its share of this joint responsibility by taking a leadership role:

MPP Gerry Martiniuk, PC: As legislators we have the responsibility to help ensure that the residents of this province are as safe as reasonably possible. This is a responsibility this government takes seriously. During the past five years, we have taken a leadership role in taking action to protect and support victims of domestic violence (3 Oct 2000: 15h10).

MPP Joseph Tascona, PC: That is why during the past five years our government has taken a leadership role in the area of domestic violence (3 Oct 2000: 15h30).

MPP Doug Galt, PC: We're delivering on those promises, just as we said we would. We're taking a leadership role, a role we've actually been taking since June 8, 1995 (3 Oct 2000: 15h50).

Marilyn Mushinski, PC: Over the last five years, this government has taken a leadership role in taking very concrete action to protect and support victims of domestic violence (4 Oct 2000: 16h10).

These assertions of leadership coincided with attempts by Progressive Conservative MPPs to shift responsibility onto federal and municipal levels of government:

MPP Gerry Martiniuk, PC: Keeping the people of this province safe is a battle no one level of government can win on its own. Ontario is playing its part to ensure the safety of our communities, our families and our children. It is time for the federal government to live up to its responsibilities to keep our homes, streets and neighbourhoods safe (3 Oct 2000: 15h30).

MPP Joseph Tascona, PC: Now the federal government has responsibilities in this...I have no explanation of why the federal government hasn't acted in this area...so where is the federal government? They're not there (3 Oct 2000: 15h50).

MPP Brenda Elliott, PC: [W]hat has happened is the responsibility for that particular series of programs is now moving to the municipalities (24 Oct 2000: 16h00).

MPPs from the opposition parties were quick to point out that the Harris government itself had not lived up to its responsibilities. In the following excerpts, MPPs emphasized that although everyone had some responsibility, including their own parties, the Progressive Conservative government was not adequately fulfilling its leadership role. In one instance, a Liberal MPP actually denounces the Harris government's "neo-con" approach:

MPP Rosario Marchese, NDP: I think we've got to do more as a government. I really do. The government has a responsibility, first of all, to meet with those 95 organizations which have made requests about what ought to be done and have not been listened to. You, Premier, are not on the front lines. You, Minister, are not on the front line. If they recommend that we spend \$300 million in terms of prevention, then you ought to be there and you ought to be spending the money (5 Oct 2000: 15h30).

MPP Caroline Di Cocco, Liberal: You see, that's the difference between Dalton McGuinty and the Ontario Liberals and Harris and the neo-cons. On this side of the House, and I have to say this very clearly, Dalton McGuinty and the Ontario Liberals know and understand that the

responsibility of government is more than a punitive approach. (5 Oct 2000: 16h10).

MPP Michael Bryant, Liberal: I just want to again say that it is really the government's responsibility to implement this report (14 Nov 2000: 15h50).

MPP Leona Dombrowski, Liberal: Certainly we, as the opposition, did what we thought was our responsibility, to focus on those parts of the bill that could be strengthened, that should be changed, that should be corrected, and nothing happened. Your government chose not to pay attention to those very worthy amendments that were brought for debate (5 Dec 2000: 17h30).

Liberal MPPs' claims the Progressive Conservatives were doing little or nothing coincided with claims that their own party was acting responsibly. Using terminology such as "we did" and "your government" shows the distinction that they made between what their own party had done (when in power) and what it would do were their leader, Dalton McGuinty, in power. MPPs representing the NDP similarly critiqued the Harris government using "we" and "you" statements.

Opposition MPPs voiced special concern that Bill 117 shifted responsibility to abused women, since abused women would have to obtain an intervention order themselves and then enforce it. They argued that placing responsibility for obtaining an intervention order into the victims' hands decreased the likelihood that victims would come forward. Moreover, they argued that the needs of those who suffered primarily emotional abuse were being ignored. In either case, they argued abused women could not be expected to know how to navigate a system that was likely to turn them away:

MPP Michael Bryant, Liberal: So basically it's up to the victim to enforce the order. The Attorney General is not, through this act or otherwise, going to be enforcing the order for the victim (23 Oct 2000: 16h50).

MPP Peter Kormos, NDP: "Once is Too Often," by a woman, Lori: "No one at the police station would help me compile the statements and the

evidence. I was told it was my responsibility because I laid the private information charge, not them" (5 Dec 2000: 16h50).

Representatives of women's anti-violence groups tended to focus less on how the government had failed, than on how the government's responsibility for protecting victims could be enhanced. In particular they emphasized the need for a holistic approach that includes offender accountability, protection of victims and changes within the legal system:

Vivien Green, Woman Abuse Council: I feel this bill is extremely important in attempting to meet the needs of all abused women and is a necessary addition to providing urgently needed supports necessary to protect victims of abuse (30 Oct 2000: 16h10).

Pamela Cross, Metropolitan Action Committee on Violence Against Women and Children [METRAC]: They felt that while good laws that are well enforced are important--as do we, and that's why we're supporting this bill--those laws should be part of a many-faceted approach to solving the problem of wife abuse (31 Oct 2000: 15h40).

Although men's advocates also held the government responsible for some of the problems, they tended to lay blame at the feet of all levels of the provincial and federal government. They would argue that rather than prevent domestic violence, the system in fact perpetrated it:

Brian Jenkins [FACT affiliate]: Men's suicide rate is currently about four times that of women's, on average. StatsCan analysis says that divorced men have about 16 times the suicide rate of women. Certainly divorce occurs well after separation and they do not check what the suicide rate of men is at separation, but you would expect it to be higher (24 Oct 2000: 16h30).

Maxine Brandon, Mothers for Kids: There must be changes within our legal system itself and in federal and provincial legislation to reduce domestic violence and not perpetuate it (30 Oct 2000: 18h10).

David Osterman, Freedom for Kids: We're willing to allow 10 men to suicide, roughly, for every woman who gets murdered (31 Oct 2000: 15h50).

Dori Gospodarcic, Second Spouses of Canada: What do we all tell our sons? That their father is bad and that men can't be trusted? That mothers and women have all the rights and men none? They are learning this at mother's knee. Girls, on the other hand, get to learn how to use, abuse and manipulate the system. Do you see how this perpetuates itself (31 Oct 2000: 16h10)?

The men's rights organizations and supporters used facts on men's suicide rates and bias within the legal system to argue that no body of government - federal, provincial or municipal - cares about what happens to men or the adverse effects that this type of legislation can have on men and boys.

Representatives of the four professional bodies outlined general concerns with the Bill. It was argued that the government needed to show more responsibility by sitting down with these groups to implement important changes. In particular there was a general concern of the increase in individual responsibility that this Bill might cause:

Judith Huddart, Canadian Bar Association: We also question how many women will apply to the courts for such orders, because they're caught between domestic violence courts in some areas, quasi-criminal courts in other areas and, of course, we deal with them in the family law area, and that may be a whole other court. The costs and the procedural difficulties that may happen with this legislation are a big concern to us. Can our clients afford it? Can they afford a criminal lawyer plus a family law lawyer (31 Oct 2000: 16h30)?

Cynthia Wasser, Canadian Bar Association: There's no reason why the Attorney General can't do that as an option. The Attorney General acknowledges that he must seek the approval of Parliament to amend the Criminal Code in order to enforce this. Parliament, as we know, is dissolved right now and not likely to be reinstated before the new year. So there's plenty of time for more communication with the stakeholders, to take our time to ensure that you are putting forward a solid bill without sloppy drafting and by that, you should be having the consultation process in a more democratic manner with those stakeholders. All of us would love to have more time with the Attorney General and his people to help draft it in a proper way (31 Oct 2000: 16h40).

Francine Sherkin, Advocates Society: We are concerned that without greater co-ordination between the two levels of court and without a balancing of the family and criminal law areas, injustice will result to families, to children and to litigants (31 Oct 2000: 17h00).

Overall, responsibility appears to be an area in which governmental and non-governmental speakers disagree. Every speaker held their own views and opinions as to who should be responsible for what, thereby making it impossible to arrive at a consensus.

Protection and Gender

Protection was a key theme, and one that was entangled with gender and contention over its relevance of gender to victimization. Tensions over this issue speak to the impetus behind Bill 117, a series of domestic femicides in Ontario between 1998 and 2000, including several in the summer of 2000:²

MPP Michael Bryant, Liberal: We had a spring and a summer of horrors: deaths reported in the newspapers, 11 women killed over five months, many maimed and many abused (3 Oct 2000: 16h20).

Progressive Conservative MPPs advanced the Harris government's official line using wording that makes it clear that for the Harris government protection of victims was, officially, the focal point and key purpose of Bill 117. As the following quotes indicate, Progressive Conservative MPPs endeavoured to frame the Bill as a powerful tool for achieving this aim:

MPP Gerry Martiniuk, PC: One of the goals of this bill is to provide further protection for women and their children so they can remain in the family home (3 Oct 2000: 15h20).

MPP Joseph Tascona, PC: The bottom line of these reforms is faster access and better protection for victims of domestic violence (3 Oct 2000: 15h40).

MPP David Tilson, PC: That's why our government continues to take action to help protect victims of domestic violence and to hold abusers accountable for their actions (5 Dec 2000: 16h10).

Progressive Conservative MPPs tended to refer to protection and victimization in gender-neutral language. Some, however, chose to emphasize that men could also be victims and that legislation must ensure that protections are in place for all victims, regardless of gender. Progressive Conservative MPPs advanced these arguments from the opening days of the debates:

David Tilson, PC: I guess the only comment I could have to the various members who have spoken is that it's not just violence by men against women; it's all domestic violence. That's what we have to attend to and that's what this bill is dealing with (3 Oct 2000: 17h20).

Gary Stewart, PC: I want to emphasize the fact that spousal abuse includes both females and males (5 Oct 2000: 15h50).

MPP David Tilson, PC: I would agree with my friends that the bulk of them would be violence by men against women, but not necessarily so. There are a number of situations where there might be different categories of domestic violence (27 Nov 2000: 16h30).

In contrast, opposition MPPs often took the position that women are the primary victims of domestic violence and that legislation must therefore be geared towards protecting women and children. As the excerpts below demonstrate, opposition MPPs used very passionate language when speaking about the relevance of gender to victimization and protection:

MPP Marie Bountrogianni, Liberal: Woman abuse is about power...In families where a woman has less power by virtue of either not being in the labour market or not having adequate education, she has a greater probability and a greater risk of being abused (3 Oct 2000: 16h30).

MPP Frances Lankin, NDP: [T]he member for Dufferin-Peel said that domestic violence is not just about male violence towards women. Those words chilled my heart...If there is not...an understanding of the unique and heinous nature of domestic assault and of intimate femicide, how can

the women of this province have any hope or any faith that the legislators of this province...understand the root causes or the measures that need to be taken to prevent further such actions? Is it because we allow this group of abused women to be nameless and faceless (3 Oct 2000: 17h30)?

MPP Rosario Marchese, NDP: It's an issue of power and it's an issue of the abuse of that power. Please, let's not confuse it. The real issue is violence against women, not the other way around (5 Oct 2000: 16h10).

Opposition MPPs' position is broadly consistent with arguments advanced by women's anti-violence representatives, who tended to view the issue of protection more broadly, and at the same time viewed it in gender-specific terms. Specifically, women's anti-violence representatives focused on the need for enhanced victim protections in a variety of areas, in particular areas that would serve to help women and their children. Included among their concerns is the need for strategies that promote women's equality, a concern that marks their discourse as "feminist":

Beryl Tsang, Cross-Sectoral Violence Against Women Strategy Group:...[This legislation] needs to be part of a series of actions that promote women's equality in Ontario...This summer...we've witnessed brutal, unrelenting violence against women...their murders aren't random and they're not isolated acts of violence. These are deliberate acts of violence committed by men against women. On average, 40 women a year in Ontario are murdered by a partner or a former partner...more remain with an abusive partner because they lack the means to leave. I think it's really well established that violence against women is rooted in social, political and economic inequality (30 Oct 2000: 16h30).

Helen Brooks, Durham Region Custody and Access Project: In the handout, there is a summary of the amendments we propose in order to expand protection to the victims of domestic violence (30 Oct 2000: 17h30).

Men's advocates made few references to protection. However, when they did they made it clear that men also needed protection, that it was women they needed protection from, and that the government has a responsibility to ensure that all victims are protected. The following quotes advance their key argument that domestic violence is a human

rather than a gender issue that it is not about men's violence against women but rather about all violence against intimate partners:

Maxine Brandon, Mothers for Kids: Men and women who have left marriages due to reasons of psychological abuse find that now they are being re-abused in trying to obtain a divorce and the custody of their children (30 Oct 2000: 18h10).

Dori Gospodarcic, Second Spouses of Canada: We do want protection, yes, but we want to be able to protect ourselves against other women (31 Oct 2000: 16h10).

MP Roger Gallaway, Liberal: I'd like to say that society in general and parliamentarians have a duty to protect all Canadians--and I want to stress "all"--from this phenomenon (31 Oct 2000: 17h10).

Senator Anne Cools: This condition is rendered more difficult by official government disinclination to accept the obvious fact that violence and aggression are human problems, not gender problems. I shall ask you to examine the proposition that men and women are equally capable of vice and equally capable of virtue, and that virtue is a human characteristic, not a gender one...the issue of domestic violence has been falsely framed or wrongly framed as violence against women (31 Oct 2000: 17h20).

The four professional bodies that were represented spoke often to the issue of protection. Their focus, although rather indirect compared to the social action groups and various MPPs, was on how this Bill could hurt all those involved.

Cynthia Wasser, Canadian Bar Association: If the Criminal Code is not available because the police do not have reasonable grounds to lay a charge or the prosecutor does not feel there is a reasonable prospect of conviction, then the use of provincial legislation may be ultra vires and abusive (31 Oct 2000: 16h20).

Judith Huddart, Canadian Bar Association: Certainly the criminal issues have an impact on our clients. If there are challenges to this legislation, our clients will be dragged through the courts, and we look at that as just another weapon for someone who has already been victimized in the process (31 Oct 2000: 16h30).

Mary Reilly, Family Lawyers Association: I would suggest that this legislation really isn't providing the protection to the individuals who need protection, by complicating the procedures (31 Oct 2000: 16h40).

Francine Sherkin, Advocates Society: We are concerned about the effect of the draft legislation on both parties to the proceeding contemplated in the legislation. The bill is intended to protect victims of domestic violence. It is our view that Bill 117 may fall seriously short of this goal and may in fact make it more difficult to make victims of violence safe (31 Oct 2000: 17h00).

It is noteworthy that MPPs across parties frequently changed from a gender specific to a gender-neutral construction, or vice versa, in the same statement. These shifts denote ambivalence or discomfort with one or the other construction, or at least awareness of the contentious nature of this issue:

MPP Gerry Martiniuk, PC: [O]ne of the goals of this bill is to provide further protection for women and their children so they can remain in the family home...if he or she does not leave, the police could make an arrest for breaching the order (3 Oct 2000: 15h20).

MPP Michael Bryant, Liberal: The person may start out with verbal threats and then actually start hitting her (27 Nov 2000: 15h48).

MPP Peter Kormos, NDP: [S]o the respondent has every capacity to make his or her case in front of the presiding judge...the amendment here is a fair one and an appropriate one and one that will protect women and protect cops (27 Nov 2000: 16h20).

Although there were inconsistencies in their pronoun choice, it was very clear that both Conservative and opposition MPPs and women's anti-violence organizations focused their discourses on women and children as victims and men as perpetrators. Women are "always-already" in need of protection (see Smart, 1992), meaning historically women have always been the ones seen as deserving and needing protection, not men.

In sum, opposition MPPs tended to concur with the views advanced by representatives of women's anti-violence organizations. Together they constructed a discourse in which protection is something that needs to be directed primarily, if not

solely, towards women and children. Progressive Conservative MPPs, generally, adopted language that was more amenable to that of men's advocates, although many shifted back and forth between neutral and specific language. Several emphasized their view that domestic violence is gender-neutral, that it is not just about men's violence against women. However, the more radical view that men need special protections from women who constitute a major danger, was advanced solely by men's advocates.

Rights and Gender

Another important gender related theme that emerged was related to the issue of rights. Although the Progressive Conservative Members of Provincial Parliament seemed to avoid talking about the issue, the opposition parties thought it important to discuss rights, especially as they pertain to the victim.

MPP Claudette Boyer, Liberal: This is a government that speaks endlessly about victims' rights, yet at the very same time, with this bill, they are taking the focus off the victims (4 Oct 2000: 16h50).

MPP Rosario Marchese, NDP: But the Victims' Bill of Rights had no rights. Good people of Ontario, taxpayers...said this so-called Victims' Bill of Rights was nothing but a statement (5 Oct 2000: 15h20).

MPP James Bradley, Liberal: There's a lot of talk about victims' rights on the part of this government, yet the victims' rights office has really not received the kind of funding that's necessary to carry out its responsibilities appropriately (5 Oct 2000: 16h30).

MPP Peter Kormos, NDP: It would have been far more refreshing to have heard this minister stand up today and talk about getting real about the Victims' Bill of Rights and fulfilling that promise to create a Victims' Bill of Rights that indeed entails providing some rights for victims rather than the toothless one this government persists in maintaining (5 Dec 2000: 13h30).

These excerpts illustrate that, as with other themes, rights were used by the opposition to reiterate areas where the Progressive Conservative government had failed.

The women's anti-violence advocates made a similar argument to the opposition

MPPs:

Eileen Morrow, Ontario Association of Interval and Transition Houses [OAITH]: The government of Ontario must...provide the access to justice measures that ensure that women can exercise their rights to equal justice by applying for the orders, having them enforced and taking other actions women need to take to protect themselves and their children (30 Oct 2000: 15h31).

Beryl Tsang, Cross-Sectoral Violence Against Women Strategy Group: We need immediate direction to crown attorneys to argue women's charter rights to life, liberty and personal security in all bail debates (30 Oct 2000: 16h40).

Donna Babbs, Durham Region Custody and Access Project: We ask, in all the submissions you hear, that you consider the importance of life, liberty and security of the person, which is in the Canadian Charter of Rights and Freedoms, and that you err on the side of caution, let these orders be made and worry less about trampling on the rights of potentially very dangerous individuals not being removed from their homes (30 Oct 2000: 17h40).

Pamela Cross, METRAC: They [women] will not have the equal treatment under the law that is promised in the Canadian Charter of Rights and Freedoms (31 Oct 2000: 15h30).

The central concern for the women's anti-violence organizations was on the victims' needs and rights according to the Charter. Similarly, men's rights organizations focused on the infringement of Charter rights with a specific look at men as victims.

Butch Windsor, Equal Parents of Canada: Overall, I believe passing legislation which relies on a person's belief as a ground for taking away one's rights is social engineering at its worst (24 Oct 2000: 15h40).

Peter Cornakovic, Fathers Are Capable Too [FACT]: Although the legislation is not gender biased in its presentation, from my perspective the intention is to make it gender biased. If this happens, this will be in contravention of section 15(1) of the Charter of Rights and Freedoms. It will increase opportunities for false allegations by providing positive reinforcement to dysfunctional behaviour (24 Oct 2000: 16h50).

Bill Flores, Children's Voice: [W]e would also like to raise objections to the passing of this bill on legal grounds since this legislation is being

introduced under preferred-gender policies, where only women's groups are provided financial funding, and is contrary to section 28 of the Charter of Rights and Freedoms (24 Oct 2000: 17h00).

Dori Gospodarcic, Second Spouses of Canada: When you back someone--that is, one side--into an impossible corner, strip him dry, take away all his rights, what do you think will happen? When men are so degraded, devalued, belittled and blamed, what do you really think will happen (31 Oct 2000: 16h10)?

Walter Fox, Criminal Lawyer [lawyer for FACT]: It seems that the ideological winds are blowing so strongly that they're going to sweep away basic protections that every Canadian expects to have living in this country in the name of some ideological objective which has no basis in statistics or in anything to do with the real world (31 Oct 2000: 17h10).

Men's rights advocates were passionate in their belief that current laws discriminate against men and that the passing of Bill 117 would advance this discrimination. There was heavy reliance by men's rights advocates on the equality provision of the Charter of Rights and Freedoms. Women's rights advocates thought the Charter would further protect women from discrimination not be used as a weapon against them; however, it has been used more often by men's rights advocates to further the backlash movement (see Sheehy, 2002). It is also interesting that Dori Gospodarcic's language seemed to suggest that men do not have any other choice but to be violent.

The professional bodies represented during the debates took a neutral approach. They proceeded to examine rights as they pertain to both the victim and offender.

Cynthia Wasser, Canadian Bar Association: In our view, this bill may very well be creating a new criminal offence. This raises concerns about the constitutionality of the bill, as the province, as we all know, cannot legislate in the area of criminal law (31 Oct 2000: 16h20).

Judith Huddart, Canadian Bar Association: We aren't sure when we would want to recommend an intervention order as opposed to a criminal action. We can envision that our client is not going to call a family law or criminal law lawyer in the middle of the night (31 Oct 2000: 16h30).

Mary Reilly, Family Lawyers' Association: It is the family law lawyers' position that the enactment of this bill would increase costs to individuals utilizing the system, either personally or through the legal aid plan (31 Oct 2000: 16h40).

Francine Sherkin, Advocates' Society: Because of our concern about the far-reaching implications of this legislation for the public, we would very much like to participate in a meaningful consultation process (31 Oct 2000: 17h00).

These experts - the Canadian Bar Association, Family Lawyers Association, and the Advocates Society and Criminal Lawyers Association - all agreed that although there were important aspects to this Bill, more research and amendments would be needed before support could be given to have Bill 117 enacted. Only the Progressive Conservative government argued that the Bill should be passed without any changes.

Funding and Fairness

Funding issues were referred to repeatedly throughout the debates. In fact, this theme overshadowed much of the discussion on domestic violence. How money is distributed, cut and withheld was discussed by both government and non-government participants alike, but in very different ways. Progressive Conservative MPPs defended the Harris government's allotment of funding, which they linked to the leadership role the government assumed through Bill 117, and the way this Bill demonstrates their concern for victims of domestic violence.

MPP Gerry Martiniuk, PC: While minimizing our achievements, the members of the opposition maintained we had not supported victims through community-based programs. This is just not so. The facts speak for themselves: \$10 million in annualized funding has been allocated to help children who have witnessed domestic violence and to establish a transitional support program. This will help victims to establish new lives for their families, free from domestic violence (3 Oct 2000: 15h30).

MPP David Tilson, PC: This government also provides substantial funding and community-based services...[W]e're committed to supporting

women's shelters because they keep abused women and their children safe (5 Oct 2000: 17h40).

The ways in which the Progressive Conservative government advanced their claims and defended their spending was very structured and very repetitive. Each member that spoke regurgitated the same party platform instead of defending their actions in a more specific or straightforward manner. Progressive Conservative MPPs seemed to deliberately avoid answering questions about funding cuts or answered by again by re-stating all the things the Harris government had done. At the same time they suggested opposition MPPs were wrong because they simply did not have the "facts".

While Progressive Conservative MPPs attempted to deflect the issue, NDP and Liberal MPPs voiced their concerns about funding over and over again:

MPP David Caplan, Liberal: In addition to the cuts to shelters, we've had an elimination of funding to second-stage housing. It's shocking that a government which is going to bring in this measure, is going to say that they care so much, on the one hand, and hypocritically, on the other hand, cut and eliminate those kinds of services (3 Oct 2000: 16h10).

MPP Frances Lankin, NDP: The May-Iles jury recommendations, which you so often quote as being proud that you're implementing a lot of them, called for a review of shelter funding. Why haven't you done that (4 Wed Oct 2000: 15h50)?

MPP David Caplan, Liberal: They [The PC government] cut shelter funding for women and children fleeing abusive situations and for emergencies (5 Oct 2000: 15h40).

MPP Leona Dombrowsky, Liberal: Mike Harris's government has cut funding to rape crisis centres. This government, Mike Harris's government, has cut funding to women's shelters. We've heard over the course of the discussion this afternoon about the number of dollars that this government is putting toward women's shelters...[S]upport for women's shelters is not sufficient to meet the need (5 Oct 2000: 17h10).

MPPs from both opposition parties were very passionate about the funding cuts and the need to restore money to various organizations supporting victims of domestic

violence. They were also united in the heated language used to describe the governments' lack of action in regards to allotting money to organizations. The use of "they cut funding", "why haven't you done that", and "Mike Harris's government" demonstrate how opposition MPPs used language to place the blame for insufficient funding on the Progressive Conservative government, while portraying their own parties as heroes who were passionately devoted to the cause.

The special interest groups that were represented also had much to say about the way funding is allotted. Men's advocates argued that funding is dispersed in a discriminatory manner:

Eric Tarkington, Human Equality Action and Resource Team [HEART]: I would also like to point out that there is a total absence of funding for men's issues currently in this province or in any other province of this nation (24 Oct 2000: 16h10).

Bill Flores, Children's Voice: [W]e would also like to raise objections to the passing of this bill on legal grounds since this legislation is being introduced under preferred-gender policies, where only women's groups are provided financial funding, and is contrary to section 28 of the Charter of Rights and Freedoms. This prejudice provides women's advocacy groups with an advantage over the unrepresented other half of the population by enabling them to lobby and conduct research and ways to manipulate it to their advantage, frequently in very deceitful ways (24 Oct 2000: 17h00).

Walter Fox, Criminal Lawyer [lawyer for FACT]: I would like to point out to you that you will hear from groups, usually women's groups, that those groups are funded. The men who come before you today or in the course of these debates come before you at their own expense, with no funding from anyone (24 Oct 2000: 17h10).

Gene Colosimo [FACT affiliate]: What's the agenda? Why isn't there funding for men's groups? FACT has been around five years, they spoke, they didn't even ask for funding (24 Oct 2000: 17h50).

The wording of these excerpts denote that women hold power because they have funding, whereas men are discriminated against because they are denied public resources.

Colosimo and other men's groups affiliates and supporters portray men's organizations as the victims because men's groups do not get nor do they ask for funding, while women's organizations are continuously being funded to "manipulate" and conduct their research in ways that infringe men's Charter rights. These sentiments were echoed by women's organizations that advocate for men's rights:

Dori Gospodarcic, Second Spouses of Canada: The funded women's groups and organizations claim to represent women. "Which women?" I ask. I guess only certain women... Why is it that those women's groups, funded all the way, silence women's voices? This information has been suspiciously absent by these women's groups (31 Oct 2000: 16h09).

Gospodarcic's language is very passionate and heated. It is clear that men's rights organizations feel discriminated against by a government that in their view supports women's issues at the expense of men's rights.

Women's anti-violence organizations, on the other hand, prefer a discourse that resembles the words spoken by the opposition parties. They emphasize the need to restore funding and the damage that has been caused by all the cuts since 1995.³

Eileen Morrow, OAITH: [T]his bill seems to be the only priority we have so far seen from the government of Ontario in the fall session. It is not enough. More can and must be done. If this is the centrepiece of the government's table for violence against women, we can't expect much of a meal (30 Oct 2000: 15h31).

Dorothy Bakos, Woman Abuse Council: [I]t is increasingly challenging to continue to provide these services and to meet the demands, as well as work with committees such as the Woman Abuse Council, due to a lack of funding, cutbacks that stem from 1995... Many agencies have had their funding reduced by 5% since 1995, forcing agencies to cut back on counselling programs (30 Oct 2000: 16h20).

Pamela Cross, METRAC: I think we need to increase the funding to community-based services for women (31 Oct 2000: 15h39).

The commonality of the language between opposition MPPs and women's anti-violence representatives was also evident during the question and answer period, after the representatives made their submissions.

MPP Peter Kormos, NDP: The government members spoke yesterday about all the enhanced funding that we've witnessed since 1995. Is that true?

Joanne Krauser, Alliance of Canadian Second Stage Housing Programs: We haven't been eligible for any of it (24 Oct 2000: 15h50).

MPP Peter Kormos, NDP: What about the funding?

Eileen Morrow, Ontario Association of Interval and Transition Houses: In fact, the funding cuts have not been restored. What we have is an increase in women calling, an increased demand, and pressure on the services. So we have less service to each individual woman and child as a result (30 Oct 2000: 16h40).

Congruence between the NDP and Liberal MPPs and women's anti-violence group representatives strengthened the argument each advanced on the need for more funding, while the men's rights argument for funding for men's organizations, and "alternative" women's organizations, was virtually ignored even by Conservative MPPs.

Numerical and Statistical Truths

David Brown (2000) was incredibly accurate in an Ottawa Citizen article he wrote on the Bill 117 debates when he said, "Statistics are the bullets of this war, and all sides use them like snipers. Often there is no way of knowing where the shot came from, or if it was accurate." Many presenters appeared with statistics, reports, journal articles, and information from police, judges, and other community experts. They used these reports to back up their claims on the extent or nature of domestic violence, including especially claims on whether domestic violence is gender specific or not. Statistics were used throughout the debates by both MPPs and special interest groups as a way to demonstrate the "facts" of domestic violence.

Opposition MPPs often used statistics to demonstrate the failure of the Progressive Conservative government in helping victims of domestic violence.

MPP Lyn McLeod, Liberal: But anybody who's involved with those who are experiencing domestic abuse knows that 75% of women who are abused never report their abuse to the police (3 Oct 2000: 16h10).

MPP Frances Lankin, NDP: I've had ministers quote statistics at me of what you have implemented from May-Iles. What you won't do is answer the key question of why this government is not prepared to address the social community and economic security that women need (3 Oct 2000: 17h40).

MPP Marie Bountrogianni, Liberal: I just want to read you some statistics for the record before I hand it over to my colleague. Last year, they turned away 685 women--I guess this is underlining need for more shelters (5 Oct 2000: 16h00).

MPP Dave Levac, Liberal: I'm not going to throw out any more statistics...I will speak personally for my riding that represents 119% overcapacity (5 Oct 2000: 17h30).

The opposing MPPs used statistics to highlight the need for a community-based approach, not a response that focuses solely on the criminal justice system. Many of these speakers made reference to the number of women who do not report their experiences and the overflow at shelters to demonstrate areas in which the Progressive Conservative government needs to do more.

Although the Progressive Conservative government did not rely on statistics as heavily, they still used numbers to demonstrate all the things they have been doing.

MPP Marilyn Mushinski, PC: I want you to consider the facts. Some \$51 million has been allocated to support 98 emergency shelters and related services in 2000-01 (4 Oct 2000: 16h20).

What constituted facts for the Progressive Conservative MPPs was all the spending they had been doing; however, the facts according to the Liberals, NDP, and women's anti-violence organizations were that the government had not done as much as

they claimed. The women's anti-violence advocates used statistics much like the Liberal and New Democratic parties to demonstrate the gendered nature of domestic violence and to show where funding is needed.

Eileen Morrow, OAITH: Many women, in fact most women, as we know from the stats, are not going to call the police (30 Oct 2000: 15h50).

Beryl Tsang, Cross-Sectoral Violence Against Women Strategy Group: Inequalities between men and women have led--and I quote the following 1995 statistics: in 1994 woman abuse created the loss of over \$10 million in tax revenues nationally due to early death, premature death, missed days of work and incarceration. In 1995 the national cost of woman abuse to the health care system was almost \$1.6 billion (30 Oct 2000: 16h30).

On the other hand men's rights advocates used statistics more often to demonstrate a variety of inequalities that men face:

Eric Tarkington, HEART: Here are some truths about violence that I can demonstrate to you with good statistics...: (1) The rate of real domestic violence is very low...(2) Women do more than men of the domestic violence against children and older persons. I can demonstrate that to you with very good statistics from government sources. Women do a significant amount of violence against men (24 Oct 2000: 16h10).

Brian Jenkins [FACT affiliate]: Mr. Bryant is 100% wrong about what the statistics are (24 Oct 2000: 16h20).

Brian Jenkins [FACT affiliate]: Now I'm going to talk about some of the statistics that are available and that are real statistics that address directly the issue of domestic violence (24 Oct 2000: 16h30).

Peter Cornakovic, FACT: The study by StatsCan, Family violence in Canada, 2000--A statistical profile, was an update which shows that domestic violence is largely mutual between men and women, contrary to myopic myths and stereotypes (24 Oct 2000: 16h50).

David Osterman, Freedom for Kids: We have a women's directorate, women's issues and women's gender analysis, but we have no equivalent for men...Some government-funded studies will cut out pieces of statistics that are about men (31 Oct 2000: 16h00).

Dori Gospodaric, Second Spouses of Canada: Figures commonly quoted in the media always refer to males as being the problem, that's the comfort

zone, yet when Stats Canada recently reported that domestic violence is caused almost equally by men and women, what happened? Nothing, absolutely nothing (31 Oct 2000: 16h10).

One thing that both the women's anti-violence organizations and advocates for men have in common was their reliance on numbers to state their claims. However, the women's anti-violence organizations relied less on discrediting the facts presented by men's supporters and continued to argue their claim to truth, whereas the advocates for men frequently claimed that women's anti-violence groups statistics were falsely framing the issue. As the above excerpts also demonstrate, men's advocates made pleas with the government to collect better, more accurate statistics and research.

Several key reports were cited repeatedly by opposition MPPs to reiterate areas where the Progressive Conservative government had failed to help victims. The recommendations from the Baldwin report (which was in response to the May-Iles inquest), the Hadley murder-suicide, and the coalition of women's groups were all frequently cited during the debates and were all created based on the experiences of women as victims of domestic violence.⁴ More often than not, it was the Liberal and New Democratic parties that brought up these recommendations as more evidence of what the Progressive Conservative government had failed to do.

MPP Frances Lankin, NDP: I want one government minister to tell me why they won't implement the measures that we have raised over and over again. I want them to tell me why they believe, contrary to all the expert advice--to the May-Iles recommendations, to the joint committee report recommendations, to the coalition of women's organizations out there on the front line--contrary to what they say, that this will save women's lives (3 Oct 2000: 17h50)?

MPP Frances Lankin, NDP: I find it so hard to understand how the government cannot be moved by the incredible coalition of support that has come behind these demands: over 95 different and disparate women's

organizations. What does it take to get you to listen?...One has to wonder why it's so easy for you to dismiss women's voices (4 Oct 2000: 15h30).

MPP Gerry Phillips, Liberal: We have the May-Iles inquest results. Justice Baldwin then took it a step forward to give us recommendations and the coalition of groups that deal with domestic violence brought forward recommendations to us (4 Oct 2000: 16h50).

MPP David Caplan, Liberal: One of the major events which has happened during the life of this government was the May-Iles commission: 213 recommendations to help to solve the problem of domestic violence...This government's response has been deafening silence on the implementation of those recommendations (5 Oct 2000: 16h10).

It is worth noting that many of the women's anti-violence speakers themselves were considered experts in their fields by many MPPs. Two members from the Liberal party recognized this and used the various recommendations to ask these experts questions.

MPP Michael Bryant, Liberal: I asked Ministry of the Attorney General officials, not political staff but officials, whether or not the 1999 Baldwin committee report had been or was being implemented. They said it was being implemented, and they also said that it was a five-year plan and that we weren't five years down the road. Do you have any response? Where are we at in terms of the implementation of that important report?

Eileen Morrow, OAITH: Of course I don't have the report with me today. I believe there was a five-year plan, but to my knowledge the first-year plan has not been put into place at this point and a year has gone by (30 Oct 2000: 15h40).

MPP Marie Bountrogianni, Liberal: Have the recommendations of the 1999 joint committee chaired by Judge Baldwin been implemented satisfactorily? I know it's the end of the first year of a five-year plan. What has been done satisfactorily?

Vivien Green, Woman Abuse Council: As one who sat on the committee, I can say quite fully that I do not believe they've been implemented (30 Oct 2000: 16h20).

Also of importance is the gendered ways numbers were used throughout the debates. Statements on percentages of women, the coalition of 95 women's organizations and the number of shelters are all discussed in references to women. Yet opposition

MPPs and women's anti-violence representatives were not the only ones to cite these reports to substantiate their claims. Osterman, representing Freedom for Kids, spoke briefly about the Hadley murder-suicide in particular.

David Osterman, Freedom for Kids: The Luft and Hadley familicides can only be seen as suicides first. This is what was happening in this summer of violence...They were suicides first, and that's because we don't care about men (31 Oct 2000: 15h50).

Osterman was the only speaker to focus specifically on the suicide aspect of the homicides. As Boyd and Young (2002) and other men's rights scholars have documented, male suicide is a key fathers' rights theme. It is noteworthy that Osterman purported to be at these debates representing children when his comments more accurately reflected a men's rights agenda.

Language

Language was an important (latent) theme throughout the debates. This theme was very apparent when MPPs and special interest groups were passionate, frustrated, or angry about an issue, as these emotions were conveyed through language that expressed hostility and accusation. Although I anticipated that interest group participants would be ardent about their organizations and the issue of domestic violence, the passion expressed by MPPs was surprising.

MPP Frances Lankin, NDP: The recitation of the women's names and the details of their lives and deaths for me is an attempt to break through what often in this place seems like the reference to this nameless, faceless group of abused women. It was an attempt to underscore the unique and heinous nature of domestic assault and intimate femicide in response to a particular comment in the Legislature that domestic violence is not just about male violence against women and the response of some MPPs in support of that comment (4 Oct 2000: 15h30).

MPP Frances Lankin, NDP: We will continue to push you. We will continue to hound you. We will continue to want to drive an answer out of

you... The goal is so simple, it is so right, it is so just: it is a goal of saving women's lives. Please tell us how you're going to respond to the plea to save women's lives (4 Oct 2000: 16h00).

This passion was observed by Liberal MPPs who put it on the record that they appreciated the fervour that Liberal and NDP members had for the topic.

Dwight Duncan, Liberal: Let me begin by saying that I didn't see his statement as a rant at all but rather his usual eloquent and effective manner of conveying the passion I think he feels on this issue and many others (5 Oct 2000: 15h40).

Marie Bountrogianni, Liberal: What is needed, and my colleague talked about it very well and Ms Lankin talked about it wonderfully the other day in the House (3 Oct 2000: 16h30).

MPP Dominic Agostino, Liberal: First of all, I think it's a positive tone that all members are taking toward this very serious issue (4 Oct 2000: 16h30).

The excerpts above demonstrate that the tone of the debate started off very positive and optimistic. However, as amendment after amendment was shot down, and as the speed with which Bill 117 was proceeding came to the attention of opposition MPPs, the tone of the debates deteriorated substantially and language became increasingly heated:

MPP Peter Kormos, NDP: The official opposition had an amendment. Was the amendment perfect? I suppose not. Did it address the issue? Yes, it did. It was frustrating to see the amendment not even worthy of consideration by the government. Their obsession with letting even some of the most violent people in our society, in our provincial community, retain possession of firearms went beyond frustrating to repugnant (5 Dec 2000: 16h50).

MPP Michael Bryant, Liberal: We're still reeling over here on this side of the House at the comments made by the member for Dufferin-Peel-Wellington-Grey that he felt robbed of the ability to speak on this debate as much as he wanted to. I'm not allowed to call any member of this House a hypocrite, of course, but I will say that when it comes to time allocation motions, he certainly is hypocritical, if you understand my oxymoronic suggestion here. My point here- [interrupted]

Hon Frank Klees, PC: On a point of order, Mr Speaker: I'm sure that the parsing that is being attempted by the honourable member crosses the line

and I would ask you to ask the member to withdraw his comments (5 Dec 2000: 17h10).

The argument being made by both opposition parties placed blame on the Progressive Conservatives; however, after all the time delays the language of some members of the Progressive Conservative government also became more hostile.

MPP David Tilson, PC: You know, the most noise in this place is being made by the member from the New Democratic caucus. When this legislation was introduced, you indicated that you gave this bill your support. Somehow in the committee it has become quite clear that you're not supporting this legislation, a bill to stop domestic violence...But I'm not going to lay all the blame at the feet of the member from Niagara. I suggest that the Liberal member from St Paul's also shares in the blame for the tactics that have gone on in this committee. It was within his power to submit to his opposition colleague the member from Niagara to stop the legislative shenanigans and delays that were going on in these committees and proceed with the completion of the work of that committee. But he was part of it...Unfortunately the opposition member from St Paul's and the member from Niagara, I believe, if you watched the committee debates, have been exposed for playing a shallow game of politics (5 Dec 2000: 16h10).

MPP Tilson's language is very accusatory, putting down both opposing parties while simultaneously working to make the Progressive Conservative party look good. As all members of provincial parliament became angrier and more frustrated, they also started behaving almost child-like.

MPP Gerry Phillips, Liberal: My apologies to the member who was speaking, but I believe I need to get on the record...[T]he Minister of Community and Social Services was leaving the House today he pointed at the Liberal caucus, waved his finger and said in a rather threatening tone, "Don't lobby me for more money. Stop lobbying me for money."...I believe it was an inappropriate comment. I believe the member was abusing my rights as a member.

MPP Frank Klees, PC: While I did not hear those remarks that were quoted by the member, I can tell you that what I did hear as the minister was leaving the chamber was specifically the member from Parkdale-High Park yelling at the minister and in a very abusive tone saying, "You are a sick man," and a number of other comments that certainly were not befitting a member of this House. I would say that whatever exchange

may have taken place was provoked by the antagonistic approach of the members opposite (5 Dec 2000: 16h00).

MPP David Tilson, PC: I understand the member for Scarborough-Agincourt bringing his point of personal privilege to this House as promptly as he could. The only problem is I'm the one who's suffering because at least four-

MPP Bruce Crozier, Liberal: Oh, oh.

MPP David Tilson, PC: Well, I'm sorry, but normally the practice with these types of motions is that the time is split among the three caucuses, and I've lost almost five minutes with this little altercation. Mr Speaker, I ask you to restore that to my time (5 Dec 2000: 16h10).

The above quotes are examples of several points made throughout the debates, especially during the third phase, in which the issue of domestic violence became secondary to bickering among the MPPs. In key instances the language seemed particularly inappropriate, odd or out of context for MPPs. However, anyone who watches federal or provincial parliamentary debates on television, or who is familiar with the Hansards, recognizes that peculiar parliamentary language and behaviours are by no means atypical.

MPP Tony Martin, NDP: It just doesn't do it; it just doesn't cut the mustard here (4 Oct 2000: 16h10).

MPP Peter Kormos, NDP: I'm going, "Holy zonkers, if you ever needed an alarm, it's now" (23 Oct 2000: 16h10).

MPP David Tilson, PC: If they make it up, they're going to be in doo-doo trouble because they're saying...(23 Oct 2000: 16h20).

MPP Peter Kormos, NDP: I'm putting that in a very loosey-goosey way (14 November 2000: 16h10).

MPP Peter Kormos, NDP: [W]hen you get down to the nitty-gritty, you're talking about, by and large, women getting the daylights kicked out of them by men. Look, in any of the numerous cases where firearms have been used to shoot women to death, I'll bet dollars to doughnuts, here and now, and quite frankly the research confirms this...(27 Nov 2000: 16h10).

The men's rights organizations also spoke very passionately and heatedly about a variety of issues and much like the MPPs, they also strayed from domestic violence and focused on other issues, particularly custody and access.

Erik Tarkington, HEART: The radical imbalance of custody and access awards against the father is plain evidence of the way society is treating its men unfairly (24 Oct 2000: 16h10).

Only the women's anti-violence organizations and professional bodies remained professional throughout the debates focusing solely on the issue of domestic violence. As previous researchers have noted, the women's anti-violence groups' presentations appeared purposefully clear, focused and organized (see Boyd & Young, 2002; Mann, 2005). As the following quote demonstrates, their tone also tended to be decidedly friendly and respectful:

Dorothy Bakos, Woman Abuse Council: We are very excited and enthusiastic with the work that we continue to do with diverse communities as well as education and prevention initiatives...This is why we have come together today as colleagues and community organizations, to raise awareness of these limitations and challenges that we face and to ask the government to continue to work with us on finally preventing this epidemic of family violence (30 Oct 2000: 16h20).

Overall, while the general tone of the debates declined and the MPPs became more hostile, men's advocates put down women's organizations, their funding and their research, and projected a much angrier and spiteful presence than did women's anti-violence representatives. It is important to reiterate that the anger and hostility expressed was at the expense of the discussion on domestic violence.

Resistance

The discourse created by the MPPs started to become more argumentative towards the end of the debates, as discussed above. While the Progressive Conservative

MPPs and their government enjoyed the press, the Liberal and NDP MPPs became increasingly resistant to the Bill as written. They began to press for amendments and began seriously objecting that the Progressive Conservatives were trying to force this legislation through too fast.

MPP Peter Kormos, NDP: I listened, oh so carefully, to what the parliamentary assistant had to say in his opening comments to this time allocation motion, which is designed not just to inhibit debate but to prohibit debate, to end it, to ensure there isn't a thorough consideration of all the concerns that had increasingly come to the forefront as we progressed through this bill in committee. Yes, New Democrats thought the bill held some great promise and supported the bill on first reading...But then we heard the modest two days of presentations, and some of the flaws in the bill became incredibly apparent. Opposition members from both opposition caucuses-understand that we're in the minority on that committee. It's clear. I understand the government members control what happens in committees...The opposition members were voted down summarily from minute one as they raised serious concerns, legitimate concerns about elements of this bill that would leave it far behind what this government is trying to pretend it is (5 Dec 2000: 16h40).

In response, Progressive Conservative MPPs accused opposition members of grandstanding.

MPP David Tilson, PC: The NDP representative on the committee...used during that second day two 20-minute recesses, totalling 40 minutes of the committee's time, and it was strictly to his advantage. Clearly, it was his efforts to filibuster that brought us here today. I place it on him, which precluded the committee from concluding its work (5 Dec 2000: 16h00).

While Progressive Conservative MPPs used their position of power to refuse amendments opposition MPPs countered by making lengthy speeches. By “wasting time” during the debates the two opposition parties resisted the power of the Progressive Conservative government to push the Bill through without the amendments they believed were essential to correct flaws that could result in decreasing women’s safety.

From a Foucauldian perspective, all participating MPPs, interest group representatives and representatives of professional bodies exercised power in the Bill 117 debates. One way power was exercised was by bringing silenced voices into the discussion. For representatives of women's anti-violence groups and many MPPs, this meant including the voices of all women.

MPP Marie Bountrogianni, Liberal: Women with disabilities are 34% more likely to be physically or sexually abused by their partner. Imagine that horror. Imagine that sense of helplessness (3 Oct 2000: 16h40).

MPP David Tilson, PC: It [Bill 117] talks about domestic violence against women...domestic violence involving gay relationships and domestic violence with respect to elders (4 Oct 2000: 16h00).

MPP Dominic Agostino, Liberal: It's often unheard of because a silent victim is not only silenced by an abuser but silenced by her community often, by her family, by her relatives, by her neighbours, based on cultural and ethnic traditions and values that they have (4 Oct 2000: 16h30).

Beryl Tsang, Cross-Sectoral Violence Against Women Strategy Group: I really want to call your attention to women living on the margins of our society. Aboriginal women, racialized women, recent immigrants, women with disabilities, deaf women and poor women are faced with compounded inequalities that weaken our position even further (30 Oct 2000: 16h30).

The above excerpts demonstrated how MPPs and interest group representatives alike sought to communicate their concern that previously silenced individuals must be included. However, while women's anti-violence organizations show a passionate vested interest in protecting all women, it is difficult to determine whether MPPs have more interest in getting re-elected and representing their own constituency or if they are just as passionate about the issue. They may not have the same genuine interest and determination as the women's anti-violence advocates in making sure that all voices are actually represented.

The following excerpts focused not on the needs of silenced women, but on the needs of men as framed through men's rights advocacy. Men, it seemed, needed protection through shelters, different schooling to lessen discrimination, recognition of psychological needs, and recognition of the research conducted by men's rights advocates:

Grant Wilson, Canadian Children's Rights Council: Boys in particular have had all sorts of discrimination. We don't have enough male teachers in primary grades (30 Oct 2000: 17h00).

Grant Wilson, Canadian Children's Rights Council: I know of a case where I was assisting one of the parents and he went out and murdered the woman and killed himself. I know and I can prove, with my conversations with the Peel Regional Police, that the reports in the Toronto Star were false...[I]f you had the truth, that this was a decent man who had never been in trouble with the law, who was the primary caregiver...this wasn't an anger problem he had, this was a psychological one...He probably lost it and went and killed her and killed himself because of it. Yet, when we read about him in the paper killing his ex-wife and himself, we see him as Mr Angry (30 Oct 2000: 17h00).

David Osterman, Freedom for Kids: Women's groups have formed women's shelters, which will accept a place for a woman to go to but a man has no place to go, other than his friends. They couch-surf (31 Oct 2000: 15h50).

David Osterman, Freedom for Kids: Do we really believe men are so worthless? We know they die six or seven years younger than women do, and yet we don't put any additional emphasis and research on men's health issues (31 Oct 2000: 15h50).

Men's advocates also felt that the creation of gender biased laws discriminated against them through false allegations and a focus on feminist ideology.

Eric Tarkington, HEART: I would like to say that hatred against men is nearing the end of its course, in my view (24 Oct 2000: 16h20).

Peter Cornakovic, FACT: Emotional abuse is not a crime for grown-ups... I think it's pretty obvious from the legislation and the intention of the legislation that's being presented [that feminist censorship prevails] (24 Oct 2000: 16h50).

Bill Flores, Children's Voice: During the years of preferred-gender policies, many laws have been passed that need to be reviewed for gender prejudice. Many of these laws have already lead to abuse similar to the famous Salem witch trials of the 1600s, and Bill 117 would only be furthering the grounds for the mob hatred that is being directed towards men, their children and families by radical feminist ideology (24 Oct 2000: 17h00).

Grant Wilson, Canadian Children's Rights Council: I have heard from a long-time friend who works in a shelter east of here who has told me that she has personally witnessed women who work there counselling other women to phone the police and have this guy charged with a fictitious crime (30 Oct 2000: 16h50).

Dori Gospodarcic, Second Spouses of Canada: Isn't it amazing that these women who want to be independent turn into a bowl of Jell-O when they're unhappy with their men? They appeal to society, welfare, the politicians and the legislators for money. They can't manage a thing. Their grief is always someone else's fault, and someone else should fix it (31 Oct 2000: 16h10).

As reiterated throughout this thesis, men's advocates resisted Bill 117 because of its implicit focus on women as victims. They participated in and created a backlash discourse that employed false allegations, discriminatory laws and gender bias as key constructs.

The professional bodies represented also showed resistance through their presentations. Two lawyers from the Advocates Society and the Criminal Lawyers' Association spoke briefly about the Bill but clearly stated that they were upset about the lack of input from various organizations and the quickness with which these debates were taking place.

Francine Sherkin, Advocates' Society: As set out in the letter of October 23, we are distressed at the speed with which this legislation has been introduced and the fact that there has been virtually no consultation with the criminal and family law bars...[I]t is impossible for us to responsibly review the bill and to make meaningful comments about it within such a short time frame (31 Oct 2000: 17h00).

Anthony Moustacalis, Criminal Lawyers' Association: I think we're going to decline questions and just deal with our statement.

MPP Peter Kormos, NDP: Stick around. This will be the better part of these debates.

Anthony Moustacalis, Criminal Lawyers' Association: Thank you anyway.

Francine Sherkin, Advocates' Society: We'd love to next time answer questions, but we haven't had time.

Anthony Moustacalis, Criminal Lawyers' Association: Our position is stated in the letter, that we haven't had an opportunity—

MPP Peter Kormos, NDP: But by leaving, you deny us the time to take shots at the government.

MPP David Tilson, PC: And we you.

Francine Sherkin, Advocates' Society: You can do that without us (31 Oct 2000: 17h00).

By refusing questions and keeping their submissions incredibly short, these two speakers were voicing their displeasure with the current Bill. All the participants, with the exception of the Progressive Conservative MPPs, expressed resistance to some aspects of the Bill. Some MPPs expressed concern over the quickness of the Bill's passage while others focused on the need to include the voices and experiences of all victims of domestic violence. Special interest groups further argued for the need to include the needs of different groups of victims whether they be women, men or children.

Chapter Six After Bill 117

Throughout the debates many speakers pointed out that other provinces have similar legislation. Some argued that Bill 117 is redundant because it does not add anything to already existing federal legislation. However, since 2000 Ontario has initiated a number of domestic violence initiatives that complement the Criminal Code. One such initiative is the Ontario Domestic Assault Risk Assessment (ODARA). MPPs discussed risk assessments in the Bill 117 debates, as did women's anti-violence organization representatives. In these discussions, both MPPs and women's anti-violence advocates pointed out that the May-Iles coroner jury recommended improvements and greater use of risk assessment tools:

MPP Frances Lankin, NDP: I wish we were talking about directions from the Attorney General to crown attorneys that they insist on a risk assessment being done before a show-cause bail hearing, that they adjourn the bail hearing until the risk assessment is done and that the person be detained in detention until the risk assessment is done (3 Oct 2000: 17h20).

Beryl Tsang, Cross-Sectoral Violence Against Women Strategy Group: Risk assessments need to be conducted and an offender's previous history of violence must be completed and on file before all first bail debates for abusers (30 Oct 2000: 16h40).

Following in the footsteps of the Domestic Violence Courts in Manitoba, since 1997 Ontario has created and implemented domestic violence courts in twenty sites throughout the province. Reasons given for the creation of these courts were the May-Iles inquest and the recommendations later made by the Joint Committee on Domestic violence (The Ad Hoc Federal-Provincial-Territorial Working Group, 2003). According to the Ad-Hoc Group the objectives of the domestic violence courts are to "intervene early in domestic violence situations; to provide better support to victims throughout the

criminal justice process; to more effectively prosecute these cases; and to hold offenders accountable for their behaviour” (2003: 51). The purpose of these courts is to make the system more accountable and easier for all domestic violence victims to access.

A third major initiative since Bill 117 is the Domestic Violence Action Plan, put forward by the Ontario Liberals in 2004 under Premier Dalton McGuinty (Ministry of Citizenship and Immigration 2005). Through this Action Plan, the province hopes to eliminate domestic violence by targeting all aspects of woman abuse, including the beliefs that lie at its root. This plan is intended to prevent violence against women and children and improve the supports that are available when abuse does occur. The principles that underpin the plan include victims’ rights to safety, equality, public leadership, shared responsibility, personal accountability, diversity and equity of access. Framed as a holistic response, a balanced approach that ensures measurable progress over time, it represents in many respects a dramatic departure from Bill 117. It is an approach far more consistent with constructions of domestic violence as framed by women’s anti-violence organization representatives and MPPs who in 2000 sat in opposition to the Harris Conservative government.

Over the following four years (2004-2008) the Ontario provincial government intends to strengthen community supports with more funding and better access to services, increased training for both government and non-government actors working with victims of abuse, and education for the public to change attitudes and behaviours regarding domestic violence. They will also address the need to strengthen the justice system to protect victims and their children and hold abusers accountable for their actions

by improving risk assessment tools, creating targeted initiatives for those at increased risk, and making the system more accountable and better coordinated.

Like the Harris Progressive Conservative government that came before it them, the McGuinty Liberals maintain that everyone has a role to play in ending violence against women. They conducted thirty roundtable meetings with experts and front-line workers to address the various needs and issues related to domestic violence in their regions, with the aim of activating participation and responsibility at the community level. After these meetings, the Liberals announced their intention to allot \$56 million over the following four years for community supports, \$5.9 million for training, and \$4.9 million for education and prevention (Ministry of Citizenship and Immigration, 2005).

Chapter Seven

Discussion

This paper has explored the debates surrounding the introduction and eventual demise of Bill 117. Although it made it through all the stages to become legislation, it was never enacted. It is impossible to determine the effect that each discourse had on this outcome, but the findings can be discussed in light of governmentality and feminist theory on gender and power relations.

Although feminism and governmentality are two distinct perspectives, there are many ideas within governmentality literature that feminists incorporate into their discourses. As Elizabeth (2003) notes, Foucauldian feminism offers new ways of thinking about language, power and resistance that neither perspective had necessarily taken into consideration on previous occasions. The Foucauldian perspective resembles feminism by encouraging researchers to look at a wide range of interpersonal encounters, including domestic violence, as being made up discursively through power relations (Elizabeth, 2003). The lack of an explicit exploration of men's and women's power relations is a major difference between Foucauldian and feminist approaches. Yet, in both these discourses power is viewed as mediated and problematized in a variety of ways.

According to Hartsock (1990, p. 172) a theory of power 'for' women calls for change and participation in altering power relations. Dorothy Smith (1999) points out, however, that women's participation in power relations or "relations of ruling" is not equivalent to a feminist standpoint on women's interests or needs (see also Comack 1999). In the Bill 117 debates, individual women participated from a variety of perspectives and advanced a variety of positions: as MPPs, woman's anti-violence advocates, and in the case of Senator Anne Cools and women representing Second

Spouses or Mothers for Kids, as advocates of a men's or fathers' rights (or non-custodial parents' rights) position. They all participated in power relations by drawing upon and promoting various discourses which operated as sources and manifestations of a particular "knowledge" on the problem of domestic violence and the implications of efforts to better protect victims through criminal and civil measures as proposed in Bill 117.

The discourses employed and created in the Bill 117 debates should be looked at as part of a constantly shifting and changing set of relations dispersed among competing parties. From a Foucauldian perspective, power relations are not just confined to the power that the state possesses, nor are they confined to the power of the citizens to influence their governors. Power is everywhere, and all forms of power and governance are linked, discursively (Brass, 2000; Macleod & Durrheim, 2002). This interplay in power relations makes it difficult for governments to govern in a solely top-down fashion. Especially with the rise in advanced liberal governance (Rose, 1999), state and non-state entities co-participate in legislation and policy initiatives.

In the Bill 117 debates Progressive Conservative MPPs wielded power as participants in a majority government. They therefore exercised a dominant influence on how the Bill was shaped through the process of debate and amendment, evidenced in their rejection of all amendments proposed by Liberal and NDP members. On the other hand, opposition MPPs, along with individuals representing women's and men's groups, and also professional bodies, had a hand in how this legislation was perceived and received outside the halls of parliament. Thus, while the Harris government had the

“power” to refuse opposition MPPs’ proposed amendments, it did not have the power to make its proposed legislation acceptable to the various stakeholders involved.

The career of Bill 117 was arguably shaped as much by the Harris government’s embrace of neoconservative techniques of governance as by the opposing voices of men’s and women’s groups. Domestic violence has rarely been without some sort of state intervention. Therefore, it is necessary to account not only for the direct power of the state in governing domestic violence, but as importantly for how, and to what extent, the state is articulated into the activity of governing at non-state levels (Rose & Miller, 1992, p. 177). For example, the ‘summer of horrors’ that is referred to quite frequently throughout the Bill 117 debates was cited as one reason for the quickness of this law-and-order piece of legislation. Media coverage of these tragedies produced intensified public concern over what many believed was an increase in women being murdered by current or former partners as a result of government cutbacks, and the government responded with Bill 117. However, their concern overshadowed the fact that women are killed by their current or former partners every year.⁵

In feminist discourse there is concern that the feminist anti-violence community has placed too much emphasis on the criminal justice system (Chan & Rigakos, 2002; McMahon & Pence 2003; Snider 1994, 1998). However, many feminists, including those represented in the Bill 117 debates, argue for a response to domestic violence that incorporates both criminal justice and social supports to attend to the individual needs of each woman, batterers and their children. Many feminists do not want the state to remove itself from domestic violence intervention entirely. Rather they see a combination of authoritarian state, civil society and individual self-governance techniques as essential to

a coherent strategy to govern domestic violence, as we are currently seeing, to some degree, in Ontario with the Domestic Violence Action Plan (Ministry of Citizenship and Immigration, 2005).

Both Harris's Bill 117 and McGuinty's DVAP exemplify Rose's (1999) notion of how governments now use both state and non-state forms of governance concurrently. McGuinty's plan attempts to bring both state and non-state agencies together to disperse responsibility and create an all-encompassing response to domestic violence. The intent, however, is that shelters and other services for victims of domestic violence will eventually become self-sufficient, an aim Bill 117 women's groups participants oppose (Cross, 2005). Harris, on the other hand, used a more classic neoconservative focus on law-and-order. The purpose of Bill 117 was to protect victims by making punishments stronger and enforcement of intervention orders better. Having victims come forward themselves to obtain an intervention order means that the victim is made responsible or self-sufficient. Although stronger laws could take responsibility away from victims of domestic violence, victims would have to take primary responsibility for enforcing the orders themselves, taking a significant degree of responsibility away from the government and various agencies that are legally responsible for holding abusive partners accountable.

The overlap in discourse around the various themes identified in my analysis, and the various ways claims to truth were vocalized (through heated language and the inability to forge a consensus on many areas), demonstrates the complexity of domestic violence and the difficulty in creating a one-size-fits-all piece of legislation. As with any social problem there will be a variety of different voices making claims. The

development of policy, like the creation of a social problem, reflects a process of claims-making. In Bill 117 there were diverse groups making various claims as a way of constructing the problem of domestic violence.

Clearly, it will not be possible for any government to satisfy the opposing demands and interests of men's and women's groups as represented in the Bill 117 debates. As many feminists have argued, and as the women's anti-violence organization spokespersons and many parliamentarians also made clear, a criminal justice response to domestic violence "although laudable, does nothing to really change or benefit women who suffer from domestic violence. It is not enough. It does not address the most pressing and urgent issues for women and children who suffer from domestic abuse" (MPP Lyn McLeod, Liberal, 3 Oct 2000: 17h00). Relying solely on a law and order piece of legislation may cause unintended outcomes (see McMahon & Pence 2003; Snider, 1998; Walker, 1990), which all participants in the debates, with the exception of the Conservative government, were trying to emphasize.

Participants in the Bill 117 debates advanced claims, research, statistics and other evidence pointing to where they saw need. The women's anti-violence advocates were attempting, as Snider (1998) has noted, to use the state to help them counter patriarchal power at the community level through support for shelters and organizations attempting to end violence against women. As Boyd (1994) notes, this is also a key arena where patriarchal power can be and is resisted. Many women's groups identify the system and its policies as oppressive, including policies that are designed to protect women and children. Interest group participation in policy debates has increased the feminist voice and presence in Canadian family violence legislation from the 1970s forward (Walker

1990). By bringing the issue of battered women's experiences to the table and emphasizing the significance of this problem and the need to have it dealt with swiftly, carefully and efficiently feminism has successfully demonstrated the importance of combating violence against women. Men's groups, on the other hand, also bring their voice into debates on domestic violence. The Bill 117 debates provided an opening for an explicitly anti-feminist, and arguably anti-woman, agenda to enter into "relations of ruling" (Walker, 1990). Parliamentarians response demonstrates how this oppositional voice fits with the rhetoric and agendas of the various political parties, as mediated by participating MPPs.

Notably, each theme in the Bill 117 debates touched on contestation over the gendered nature of domestic violence. Whether it was the Conservative MPPs attempting to frame the issue and its proposed measures as gender neutral, opposition MPPs attempting to strengthen protections for women, women's anti-violence organizations speaking to the need for better supports for victimized women and children, men's advocates fighting against anti-male bias, or legal professionals attempting gender neutrality, everyone had an agenda. It is worth noting that there was substantially more gender specific terminology used throughout the debates than neutral language, contrary to what research has demonstrated in other government debates (see Bala, 1999; Laing, 1999). However, the Bill itself employed gender neutral language.

The broad-based implications of my study to the development of policy in general are many. For example, my findings, especially as they relate to my theme on funding and fairness, suggest that policy is about money rather than specific issues. The focus on

funding frequently expressed by participants in the debate essentially suggest that money is a key factor in policy development, implementation and effectiveness.

My findings also suggest that policy generally reflects dominant voices. Even the women who presented at the debates, who normally would be considered subordinate voices, were not representative of all women. Not all women are equally represented or have a voice in the development of policy that ultimately affects them.

It seems that debates about policy frequently provide a forum for multiple issues, some of which are only loosely connected or completely outside of the issue of focus. In this case, debates about child custody, false allegations, suicide, funding, rights and research can be seen as extraneous to the primary issue of domestic violence. As the language and funding and fairness themes make apparent, bickering and money often took over the discussion on domestic violence and the importance of combating violence against women. The debates suggest that these issues, however related to the issue of domestic violence, become a prominent feature of the debates themselves.

Feminists from the nineteenth century forward have argued that by changing certain aspects of the patriarchal structure of society we can stop domestic violence (Chunn, 1999; Pleck, 1987; Snell, 1992; Tierney, 1982). However, domestic violence is something that is “always-already” there and attempts to govern, and therefore, stop it will never be complete (Hunt & Wickham, 1994). All that can be hoped for is that one day we will find fair and just mechanisms to place responsibility for domestic violence in the hands of those perpetrating it (McMahon & Pence 2003).

Chapter Eight

Conclusion

This study has highlighted the impact of different discourses on the creation of legislation and the problem of domestic violence. It demonstrates the contributions to policy in general and domestic violence legislation in particular. It is now apparent that many discourses contribute to the creation, and also the destruction, of policy initiatives. It is not just the state telling the public what to do, but various stakeholders telling the state what it should do.

Future research could examine the ways in which marginalized groups of women are discussed in both federal and provincial debates. Although many speakers discussed issues relevant to a variety of women funding, protection, rights and responsibility. There was no explicit focus on different groups of women and the effects this particular Bill could have on them. The point of the debates, domestic violence legislation and the protection of all victims, was often secondary to these other issues and thus silenced voices became secondary to dominant discourses being represented. Further, women's anti-violence advocates and MPPs may have very different reasons for representing those silenced voices. A serious implication of this would be that silenced voices, those who are most often effected by domestic violence, are completely left out of policy development.

Research could also center on the different dynamics within government debates with an explicit focus on MPPs. The party that is in power speaks very differently about an issue than the two opposing parties. In this case the opposition parties worked together throughout most of the debates to discredit the Conservative government and strengthen their own discourses. It would be interesting to see how opposition parties work together

or against each other in other debates and whether or not their discourse changes depending on whether or not they in power.

It would also be interesting to compare the responses of the MPPs to the special interest groups in these debates to those of other debates where both feminist and men's rights groups were represented. Further analysis could also examine the groups who attend debates representing children. Organizations claiming to represent children spent most of their presentation time defending men's rights. It almost seemed as though many men's rights organizations hide under the banner of parental rights or children's rights organizations.

Since the nineteenth century feminists have fought for increased protection of victims through better legislation in many areas including domestic violence (Chunn, 1999; Pleck, 1987; Sheehy, 2002; Snell, 1992). Although Bill 117 was a significant piece of the puzzle, it was still only a small piece of what is needed to adequately protect victims of domestic violence and end this epidemic of violence against women.

The aim of this research was to explore the creation of legislation and the impacts of power exercised by competing interest groups in Canadian and especially Ontarian domestic violence policy arenas. I analyzed these for their relevance to a social context shaped by advanced liberalism, neoconservative law-and-order strategies of crime control, feminist activism, and men's rights counter-activism. I cannot answer why the Bill was never proclaimed, nor can I determine the exact influence of any of the competing discourses involved in its creation. However, through this exploration I hope to contribute to understandings on how policy is forged, to debates on the strengths and limits of efforts to assist assaulted women to resist domestic violence through criminal

justice sanctions, and to related debates on the strengths and limitations of criminal justice empowerment strategies. More broadly, I have contributed to Foucauldian discourses on challenges and contradictions of governance, especially in relation to domestic violence.

Endnotes

¹ Eugen Lupri (2004) who co-authored the Health Canada publication “Intimate Partner Abuse Against Men,” forcefully advanced this argument in a conference paper that is posted on the websites of a number of Canadian men’s rights organizations, including one which participated in the Bill 117 Debates (Lupri, 2004)

² In the year 2000 there were 52 female victims of domestic femicide across Canada (StatsCan, 2005).

³ In 1995 the Progressive Conservative Provincial government drastically cut funding to many community-based services that provided resources to victims of domestic violence.

⁴ The Baldwin report (based on the May-Iles inquest) and the Hadley inquest were both in response to instances of domestic murder where recommendations were made to the government to address the serious issue of domestic violence. The coalition of women’s groups, made up of 95 women’s rights organizations, came together to use these reports and inquests to advocate for increased attention to the issue of violence against women in Ontario.

⁵ In fact, the year 2000 saw the lowest rates of domestic femicide in Canada since recording began in 1974 (StatsCan, 2005).

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Appendix A

Contributors to the Bill 117 Debates

PC – Progressive Conservative

L – Liberal

NDP – New Democratic Party

Second Reading

Tuesday 3 October 2000

Mr. Gerry Martiniuk (Cambridge - PC)
Mr. Joseph Tascona (Barrie-Simcoe-Bradford - PC)
Mr. Doug Galt (Northumberland - PC)
Mrs. Lyn McLeod (Thunder Bay-Atikokan - L)
Ms. Frances Lankin (Beaches-East York - NDP)
Mr. Garfield Dunlop (Simcoe North - PC)
Mr. David Caplan (Don Valley East - L)
Mr. Michael Bryant (St Paul's - L)
Mrs. Marie Bountrogianni (Hamilton Mountain - L)
Mr. Michael Gravelle (Thunder Bay-Superior North - L)
Mr. David Tilson (Dufferin-Peel-Wellington-Grey - PC)

Wednesday 4 October 2000

Ms. Frances Lankin (Beaches-East York - NDP)
Mr. David Tilson (Dufferin-Peel-Wellington-Grey - PC)
Mr. Gerry Phillips (Scarborough-Agincourt - L)
Mr. Tony Martin (Sault Ste. Marie - NDP)
Mr. John R. Baird (Nepean-Carleton - PC)
Ms. Marilyn Mushinski (Scarborough Centre - PC)
Mr. Dominic Agostino (Hamilton East - L)
Mr. Joseph Spina (Vaughan - PC)
Mr. Gilles Bisson (Timmins-James Bay - NDP)
Mrs. Claudette Boyer (Ottawa-Vanier - L)
Mr. Doug Galt (Northumberland - PC)
Mr. James Bradley (St. Catharines - L)
Mr. Garry Guzzo (Ottawa West-Nepean - PC)
Mr. Dwight Duncan (Windsor-St. Clair - L)
Mr. Bart Maves (Niagara Falls - PC)
Mrs. Sandra Pupatello (Windsor West - L)

Thursday 5 October 2000

Mr. Rosario Marchese (Trinity-Spadina - NDP)
Mrs. Julia Munro (York North - PC)
Mr. David Caplan (Don Valley East - L)
Ms. Marilyn Mushinski (Scarborough Centre - PC)

Mr. Dwight Duncan (Windsor-St. Clair - L)
Mr. Gary Stewart (Peterborough - PC)
Mr. Gerry Phillips (Scarborough-Agincourt - L)
Mr. Frank Mazzilli (London-Fanshawe - PC)
Ms. Caroline Di Cocco (Sarnia-Lambton - L)
Mr. James Bradley (St. Catharines - L)
Mr. Frank Klees - (Oak Ridges - PC)
Mr. Dave Levac (Brant - L)
Mr. Bart Maves (Niagara Falls - PC)
Mr. Garfield Dunlop (Simcoe North - PC)
Mr. Joseph Spina (Vaughan - PC)
Mrs. Leona Dombrowsky (Hastings-Frontenac-Lennox-Addington - L)
Mr. John Gerretsen (Kingston-the Islands - L)

Standing Committee on Justice and Social Policy

Mr. Carl DeFaria (Mississauga East - PC)
Mr. Marcel Beaubien (Lambton-Kent-Middlesex - PC)
Mr. Michael Bryant (St Paul's - L)
Mrs. Brenda Elliott (Guelph-Wellington - PC)
Mr. Garry J. Guzzo (Ottawa West-Nepean - PC)
Mr. Peter Kormos (Niagara Centre - NDP)
Mrs. Lyn McLeod (Thunder Bay-Atikokan - L)
Ms. Marilyn Mushinski (Scarborough Centre - PC)

Substitutions

Mrs. Marie Bountrogianni (Hamilton Mountain - L)
Mr. John O'Toole (Durham PC)
Mr. David Tilson (Dufferin-Peel-Wellington-Grey - PC)
Mr. Toby Barrett (Haldimand-Norfolk-Brant - PC)
Mrs. Tina Molinari (Thornhill - PC)
Mr. Jim Flaherty (Whitby-Ajax - PC)
Mr. Joseph Spina (Brampton Centre - PC)
Mr. Ted Chudleigh (Halton - PC)
Mr. Michael Gravelle (Thunder Bay-Superior North - L)
Mr. Garfield Dunlop (Simcoe North - PC)

Also taking part on October 30th

Ms. Frances Lankin (Beaches-East York - NDP)

Also taking part on November 27th

Ms. Anne-Marie Predko, counsel, Ministry of the Attorney General.

Special Interest Group Representatives and Private Citizens

Monday 23 October 2000

Mr. David Tilson, parliamentary assistant

Ms. Joana Kuras, executive lead, victims' services
Ms. Anne Marie Predko, counsel

Tuesday 24 October 2000

Mr. Butch Windsor, Equal Parents of Canada
Ms. Donna Hansen and Ms. Joanne Krauser, Alliance of Canadian Second Stage Housing Programs (Ontario Caucus)
Mr. Eric Tarkington, Human Equality Action and Resource Team (secretary)
Mr. Brian Jenkins, representing himself but he has past affiliation with Fathers Are Capable Too (Parenting Association).
Mr. Peter Cornakovic, Fathers are Capable Too (Parenting Association)
Mr. Bill Flores, Children's Voice
Mr. Walter Fox, criminal lawyer, representing himself but he has acted as counsel for FACT at the Hadley Coroner Inquest
Mr. Gene Colosimo, representing himself but he has past affiliation with Fathers are Capable Too (Parenting Association).

Monday 30 October 2000

Ms. Eileen Morrow, Ontario Association of Interval and Transition Houses
Mr. Scott Newark, counsel, Office for Victims of Crime
Ms. Vivien Green, Ms. Dorothy Bakos, Ms. Suzanne Young and Ms. Sandra Booth-McKelvie, Woman Abuse Council
Ms. Beryl Tsang, Cross-Sectoral Violence Against Women Strategy Group
Mr. Grant Wilson, Canadian Children's Rights Council
Ms. Marion Wright, legal advocate, Women's Place of St. Catharines
Ms. Deborah Sinclair, Ms. Helen Brooks, Ms. Kate Schillings and Ms. Donna Babbs, Durham Region Custody and Access Project
Ms. Maxine Brandon, Mothers for Kids

Tuesday 31 October 2000

Ms. Pamela Cross, legal director, Metropolitan Action Committee on Violence Against Women and Children
Mr. David Osterman, Freedom for Kids, Past FACT president 2002
Ms. Dori Gospodaric, Second Spouses of Canada
Ms. Cynthia Wasser and Ms. Judith Huddart, Canadian Bar Association (Ontario)
Ms. Mary Reilly and Ms. Melanie Sager, Family Lawyers' Association
Ms. Francine Sherkin and Mr. Anthony Moustacalis, Advocates' Society; Criminal Lawyers' Association.
Senator Anne Cools and MP Roger Gallaway (Sarnia-Lampton - L)

Time Allocation Debate

Tuesday 5 December 2000

Mr. David Tilson (Dufferin-Peel-Wellington-Grey - PC)
Mrs. Marie Bountrogianni (Hamilton Mountain - L)
Mr. Peter Kormos (Niagara Centre - NDP)

Mr. Bert Johnson (Perth-Middlesex - PC)
Mr. Michael Bryant (St Paul's - L)
Ms. Marilyn Churley (Toronto-Danforth - NDP)
Mrs. Leona Dombrowsky (Hastings-Frontenac-Lennox-Addington - L)
Mrs. Claudette Boyer (Ottawa-Vanier - L)

Appendix B

Bill 117 2000

An Act to better protect victims of domestic violence

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. (1) In this Act,

"applicant" means an applicant for an intervention order or an emergency intervention order; ("requérant")

"child" means a person under the age of 18; ("enfant")

"cohabit" means to live together in a conjugal relationship, whether within or outside marriage; ("cohabiter")

"court" means the Superior Court of Justice; ("tribunal")

"designated judge or justice" means a judge of the Ontario Court of Justice or justice of the peace designated under section 13; ("juge désigné")

"prescribed" means prescribed by regulations made under this Act; ("prescrit")

"relative" means any person related to another person by blood, marriage or adoption; ("parent")

"residence" includes a residence that a person has vacated due to domestic violence; ("résidence")

"respondent" means the respondent to an application for an intervention order or an emergency intervention order; ("intimé")

"weapon" means weapon as defined in the *Criminal Code* (Canada). ("arme")

Domestic violence

(2) For the purposes of this Act, domestic violence means the following acts or omissions committed against an applicant, an applicant's relative or any child:

1. An assault that consists of the intentional application of force that causes the applicant to fear for his or her safety, but does not include any act committed in self-defence.
2. An intentional or reckless act or omission that causes bodily harm or damage to property.
3. An act or omission or threatened act or omission that causes the applicant to fear for his or her safety.
4. Forced physical confinement, without lawful authority.
5. Sexual assault, sexual exploitation or sexual molestation, or the threat of sexual assault, sexual exploitation or sexual molestation.
6. A series of acts which collectively causes the applicant to fear for his or her safety, including following, contacting, communicating with, observing or recording any person.

Same

(3) Domestic violence may be found to have occurred for the purposes of this Act whether or not, in respect of any act or omission described in subsection (2), a charge has been laid or dismissed or withdrawn or a conviction has been or could be obtained.

Applicants

2. (1) Subject to subsection (2), the following persons may apply for an intervention order or an emergency intervention order:

1. A spouse or former spouse, within the meaning of Part III of the *Family Law Act*, of the respondent.
2. A same-sex partner or former same-sex partner, within the meaning of Part III of the *Family Law Act*, of the respondent.
3. A person who is cohabiting with the respondent, or who has cohabited with the respondent for any period of time, whether or not they are cohabiting at the time of the application.
4. A person who is or was in a dating relationship with the respondent.
5. A relative of the respondent who resides with the respondent.

Age restriction

(2) A person must be at least 16 years old to apply for, or be the respondent to an application for, an intervention order or an emergency intervention order.

Intervention order

3. (1) On application with notice to the respondent, the court may make a temporary or final intervention order if it is satisfied on a balance of probabilities that,

(a) domestic violence has occurred; and

(b) a person or property may be at risk of harm or damage.

Contents of order

(2) An intervention order may contain any or all of the following provisions that the court considers appropriate in the circumstances for the protection of any person or property that may be at risk of harm or damage or for the assistance of the applicant or any child:

1. Restraining the respondent from attending at or near, or entering, any place that is attended regularly by the applicant, a relative of the applicant, any child or any other specified person, including a residence, property, business, school or place of employment.

2. Restraining the respondent from engaging in any specified conduct that is threatening, annoying or harassing to the applicant, a relative of the applicant, any child or any other specified person.

3. Requiring the respondent to vacate the applicant's residence, either immediately or within a specified period of time.

4. Requiring a peace officer, within a specified period of time, to accompany the applicant, respondent or a specified person to the applicant's residence and supervise the removal of that person's or another named person's belongings.

5. Restraining the respondent from contacting or communicating with the applicant or any other specified person, directly or indirectly.

6. Restraining the respondent from following the applicant or any other specified person from place to place, or from being within a specified distance of the applicant or other specified person.

7. Requiring a peace officer to seize,

i. any weapons where the weapons have been used or have been threatened to be used to commit domestic violence, and

ii. any documents that authorize the respondent to own, possess or control a weapon described in subparagraph i.

8. Granting the applicant exclusive possession of the residence shared by the applicant and the respondent, regardless of ownership.

9. Requiring the respondent to pay the applicant compensation for monetary losses suffered by the applicant or any child as a direct result of the domestic violence, the amount of which may be summarily determined by the court, including loss of earnings or support, medical or dental expenses, out-of-pocket expenses for injuries sustained, moving and accommodation expenses and the costs, including legal fees, of an application under this Act.

10. Granting the applicant or respondent temporary possession and exclusive use of specified personal property.

11. Restraining the respondent from taking, converting, damaging or otherwise dealing with property in which the applicant has an interest.

12. Requiring the respondent to attend specified counselling.

13. Recommending that a child attend specified counselling at the respondent's expense.

Other proceedings

(3) An application under this section shall contain a summary of all previous and current court proceedings and orders affecting the applicant and respondent, including all applications and orders under this Act.

Terms

(4) Subject to subsection (5), any provision of an intervention order described in subsection (2) may be subject to such terms as the court considers appropriate, including a term that specifies the period of time for which the provision shall be in force.

Same

(5) A provision of an intervention order described in paragraph 7 of subsection (2) shall cease to be in force if an order or final determination with respect to the respondent's ownership, possession or control of weapons is made under the *Criminal Code* (Canada) or the *Firearms Act* (Canada).

Enforcement

(6) A provision of an intervention order described in paragraph 1, 2, 3, 4, 5, 6, 7 or 8 of subsection (2) shall be enforced by peace officers under the *Criminal Code* (Canada).

Same

(7) A provision of an intervention order described in paragraph 9, 10, 11, 12 or 13 of subsection (2) may be secured by a requirement that the respondent,

- (a) post a bond in the form and amount that the court considers appropriate; or
- (b) enter into a recognizance in a form acceptable to the court.

Emergency intervention order

4. (1) On application, without notice to the respondent, the court or a designated judge or justice may make an emergency intervention order if the court or designated judge or justice is satisfied on a balance of probabilities that,

- (a) domestic violence has occurred;
- (b) a person or property is at risk of harm or damage; and
- (c) the matter must be dealt with on an urgent and temporary basis for the protection of the person or property that is at risk of harm or damage.

Other proceedings

(2) An application under this section shall contain a summary of all previous and current court proceedings and orders affecting the applicant and respondent, including all applications and orders under this Act.

Contents of emergency intervention order

(3) An emergency intervention order may only contain a provision that the court could include in an intervention order under paragraph 1, 2, 3, 4, 5, 6 or 7 of subsection 3 (2) which the court or designated judge or justice considers appropriate in the circumstances for the urgent protection of a person or property that is at risk of harm or damage.

Terms

(4) Subject to subsection (5), any provision of an emergency intervention order may be subject to such terms as the court or designated judge or justice, as the case may be, considers appropriate, including a term that specifies the period of time for which the provision shall be in force.

Same

(5) A provision of an emergency intervention order described in paragraph 7 of subsection 3 (2) shall cease to be in force if an order or final determination with respect to the respondent's ownership, possession or control of weapons is made under the *Criminal Code* (Canada) or the *Firearms Act* (Canada).

Enforcement

(6) A provision of an emergency intervention order shall be enforced by peace officers under the *Criminal Code* (Canada).

Emergency intervention order prevails over civil orders

(7) An emergency intervention order prevails over any order made under the *Children's Law Reform Act*, the *Divorce Act* (Canada) or the *Family Law Act* against or affecting the applicant or respondent or any child.

Right to hearing

(8) Every emergency intervention order shall,

(a) advise the applicant and the respondent that they are entitled to a hearing before the court for the purpose of asking for the variation or termination of the emergency intervention order if either one requests a hearing within 30 days after the respondent is served with the order; and

(b) set out the procedures to be followed in order to make the request.

Designated judge or justice's order sent to court for review

(9) Upon making an emergency intervention order, a designated judge or justice shall promptly forward a copy of the order and all supporting documentation, including any reasons for the order, to the court.

Request for hearing

5. (1) Upon receiving a request for a hearing in respect of an emergency intervention order from the applicant or respondent within the required 30-day period, the clerk of the court shall set a date for the hearing of the matter, which shall be not later than 14 days after the date the court received the request for the hearing.

Confirmation or order for hearing

(2) If a request for a hearing in respect of an emergency intervention order made by a designated judge or justice is not made by the applicant or respondent within the required

30-day period, a judge of the court shall review the emergency intervention order and the supporting documentation, without holding a hearing, and,

(a) shall confirm the order if he or she is satisfied that there was evidence before the designated judge or justice to support the granting of the order; or

(b) shall order a hearing of the matter if the judge is not satisfied that there was evidence before the designated judge or justice to support the granting of the order or is not satisfied that the evidence before the designated judge or justice supported one or more of the provisions contained in the order.

Notice of confirmation

(3) If the judge confirms the emergency intervention order under clause (2) (a), the confirmed emergency intervention order shall be deemed, for all purposes, to be an intervention order made by the court and the clerk of the court shall notify the applicant and respondent of the confirmation.

Notice of hearing under subs. (1)

(4) If a date for a hearing of the matter is set under subsection (1), the clerk of the court shall notify the applicant and respondent of the date of the hearing.

Notice of hearing under subs. (2)

(5) If a hearing of the matter is ordered under subsection (2), the clerk of the court shall notify the applicant and respondent of the date of the hearing, which shall be not later than 14 days after the date of the order under subsection (2).

If no request for hearing re court order

(6) If no request is made within the required 30-day period in respect of an emergency intervention order made by the court, the emergency intervention order shall be deemed, for all purposes, to be an intervention order made by the court on the day after the expiry of the required 30-day period.

Order not stayed by request for hearing

(7) An emergency intervention order that is the subject of a request for a hearing by the applicant or respondent remains in force and is not stayed by the making of the request.

Powers of court at hearing

6. (1) At a hearing set or ordered under section 5, the court may confirm, vary or terminate the emergency intervention order and section 3, including paragraphs 8 to 13 of subsection 3 (2), applies to the hearing and the order with necessary modifications.

Same

(2) A hearing under this section shall be a new hearing and, in addition to any new evidence brought before the court, the court shall consider the evidence that was before the designated judge or justice or court that made the emergency intervention order.

Confirmed or varied order deemed to be court order

(3) If the court confirms or varies the emergency intervention order, the confirmed or varied emergency intervention order shall be deemed, for all purposes, to be an intervention order made by the court.

Service

7. (1) An intervention order made by the court under section 3 or 6 shall be served on the respondent,

- (a) by a peace officer, if the court so directs;
- (b) by the applicant's counsel or agent;
- (c) by the court, if the applicant was unrepresented before the court; or
- (d) in any other prescribed manner.

Same

(2) An emergency intervention order shall be served on the respondent in the prescribed manner.

Substituted service

(3) If the court is satisfied at any time that service cannot be effected by a means described in subsection (1) or (2), it may make an order for substituted service on the respondent, whether or not any attempt has yet been made to serve the respondent.

Orders immediately effective

8. (1) An intervention order and an emergency intervention order are effective immediately upon being made.

Not enforceable without service or notice

(2) Despite subsection (1), an intervention order or an emergency intervention order is not enforceable against the respondent unless the respondent,

(a) has been served with the order; or

(b) has received notice of the order.

Motion to vary or terminate order

9. (1) The applicant or respondent to an intervention order may make a motion to the court at any time, upon notice to the other party, to vary or terminate the order.

Order to vary or terminate

(2) If the court is satisfied, upon a motion under subsection (1), that there has been a material change in circumstances since the intervention order was made, the court may vary or terminate the order.

Order not stayed by motion

(3) The intervention order that is the subject of a motion under this section remains in force and is not stayed by the bringing of the motion.

Civil orders to be considered

10. (1) In a review of an emergency intervention order by a judge under subsection 5 (2), at a hearing under section 6 or on a motion to vary or terminate an intervention order under section 9, the judge shall consider any outstanding orders made under the *Children's Law Reform Act* or the *Family Law Act* against or affecting the applicant or respondent or any child and may, if he or she considers it appropriate and if it is authorized under the Act under which each such order is made, vary, amend or rescind any of those orders under the Act under which it is made to the extent necessary in order to provide protection under an intervention order.

Same

(2) In a review of an emergency intervention order by a judge under subsection 5 (2), at a hearing under section 6 or on a motion to vary or terminate an intervention order under section 9, the judge shall consider any outstanding orders made under the *Divorce Act* (Canada) against or affecting the applicant or respondent or any child and may consider whether it would be appropriate under the *Divorce Act* (Canada) to vary, amend or rescind any of those orders.

Appeal

11. An appeal from an intervention order may be made to the Divisional Court.

Property ownership not affected by order

12. (1) Except as provided by paragraph 7 or 11 of subsection 3 (2), an intervention order or an emergency intervention order does not in any manner affect the title to or an ownership interest in any real or personal property jointly held by the applicant and respondent or solely held by one of them.

Exclusive possession of leased residence

(2) Where a residence is leased by a respondent pursuant to an oral, written or implied agreement and an applicant who is not a party to the lease is granted exclusive possession of that residence as permitted by paragraph 8 of subsection 3 (2), no landlord shall evict the applicant solely because the applicant is not a party to the lease.

Same

(3) On the request of an applicant mentioned in subsection (2), the landlord shall advise the applicant of the status of the lease and serve the applicant with notice of any claim against the respondent arising from the lease and the applicant, at his or her option, may assume the responsibilities of the respondent under the lease.

Designated judges, justices of the peace

13. The Chief Justice of the Ontario Court of Justice shall designate those judges of the Ontario Court of Justice and justices of the peace who shall be available on a 24-hour a day basis seven days a week to hear applications under section 4.

Protection from personal liability

14. No action or other proceeding shall be instituted against a peace officer, clerk of the court or any other person for any act done in good faith or for any alleged neglect or default in good faith, in the execution or intended execution of,

(a) the person's duty under this Act; or

(b) the person's duty to carry out the provisions of an order made under this Act.

No other rights of action affected

15. An application for an intervention order or an emergency intervention order under this Act is in addition to and does not diminish any existing right of action for the applicant or for any other victim of domestic violence.

Prohibition

16. (1) No person shall, in making an application or motion under this Act, commit perjury or public mischief within the meaning of the *Criminal Code* (Canada).

Enforcement

(2) Subsection (1) shall be enforced by peace officers under the *Criminal Code*.

Rules of court

17. (1) Subject to the approval of the Lieutenant Governor in Council, the Family Rules Committee may make rules under section 68 of the *Courts of Justice Act* in relation to the practice and procedure in proceedings under this Act, including rules,

- (a) governing applications for intervention orders and emergency intervention orders;
- (b) governing the procedures for requesting a hearing in respect of an emergency intervention order;
- (c) governing the procedures for conducting a hearing described in clause (b);
- (d) governing the service of any order made under this Act and any notice required to be given under this Act, but not prescribing a manner of serving intervention orders and emergency intervention orders for the purpose of section 7;
- (e) prescribing the contents of intervention orders and emergency intervention orders;
- (f) prescribing forms.

Rules to provide expeditious access to judicial system

(2) The rules of court applicable to the practice and procedure in proceedings under this Act shall be designed to provide applicants and respondents expeditious access to the judicial system.

No fees for application, etc.

(3) No fee may be prescribed under the *Courts of Justice Act* for any application, request or motion under this Act.

Attorney General may require rules

18. (1) The Attorney General may require that the Family Rules Committee make, amend or revoke a rule that it has the authority to make, amend or revoke, as described in section 17.

Regulation may be made if rule is not

(2) If the Family Rules Committee does not make, amend or revoke a rule as required by the Attorney General within 60 days after receiving the Attorney General's requirement in writing, the Lieutenant Governor in Council may make a regulation that carries out the intent of the Attorney General's requirement.

Regulation prevails over rule

(3) A regulation made under subsection (2) may amend or revoke a rule of court and, in the event of a conflict between a regulation made under subsection (2) and the rules of court, the regulation prevails.

Regulations

19. (1) The Lieutenant Governor in Council may make regulations,

- (a) respecting the seizure, retention, return or disposal of items required to be seized pursuant to a provision in an intervention order or an emergency intervention order described in paragraph 7 of subsection 3 (2), including authorizing the court or a designated judge or justice to issue a warrant authorizing the entry and search of a dwelling or other place;
- (b) governing methods of applying to a designated judge or justice for an emergency intervention order;
- (c) prescribing manners of serving intervention orders and emergency intervention orders for the purpose of section 7;
- (d) requiring the court or a designated judge or justice to send a copy of an order made under this Act to any person specified by the regulations;
- (e) respecting any matter that the Lieutenant Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

Different application to different areas of Ontario

(2) A regulation made under subsection 18 (2) or subsection (1) may contain different rules, requirements and provisions for different areas of Ontario.

Consequential Amendments

Courts of Justice Act

20. Paragraph 1 of the Schedule to section 21.8 of the *Courts of Justice Act*, as enacted by the Statutes of Ontario, 1994, chapter 12, section 8 and amended by 1996, chapter 31, section 65, is further amended by adding the following Act:

Domestic Violence Protection Act, 2000

Repeal of s. 35 (2) of *Children's Law Reform Act*

21. (1) Subsection 35 (2) of the *Children's Law Reform Act* is repealed.

Repeal of s. 35 of *Children's Law Reform Act*

(2) Section 35 of the Act, as amended by subsection (1), is repealed.

Transition

(3) Despite the repeal of subsection 35 (2) of the Act, any prosecution begun under that subsection before its repeal shall continue as if it were still in force.

Same

(4) Despite the repeal of section 35 of the Act,

(a) any proceeding begun under that section before its repeal shall continue as if section 35 were still in force; and

(b) any order made under section 35 before its repeal or pursuant to clause (a), after its repeal, remains in force until it terminates by its own terms or is rescinded or terminated by a court.

Repeal of s. 46 (2) of *Family Law Act*

22. (1) Subsection 46 (2) of the *Family Law Act* is repealed.

Repeal of s. 46 of *Family Law Act*

(2) Section 46 of the Act, as amended by the Statutes of Ontario, 1999, chapter 6, section 25 and by subsection (1) of this Act, is repealed.

Transition

(3) Despite the repeal of subsection 46 (2) of the Act, any prosecution begun under that subsection before its repeal shall continue as if it were still in force.

Same

(4) Despite the repeal of section 46 of the Act,

(a) any proceeding begun under that section before its repeal shall continue as if section 46 were still in force; and

(b) any order made under section 46 before its repeal or pursuant to clause (a), after its repeal, remains in force until it terminates by its own terms or is rescinded or terminated by a court.

Commencement and Short Title

Commencement

23. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

24. The short title of this Act is the *Domestic Violence Protection Act, 2000*.

Vita Auctoris

April Girard was born in 1981 in Windsor, Ontario. She graduated from Belle River District High School with a French certificate in 2000. From there she went on to the University of Windsor where she obtained a B.A. in Criminology and Psychology with Thesis in 2004. She is currently a candidate for the Master's degree in Sociology specializing in Criminology at the University of Windsor and plans to graduate in June 2006.